



DeWight Dopslauf, C.P.M., CPPO
Harris County Purchasing Agent

March 19, 2021

Commissioners Court
Harris County, Texas

RE: State of Texas Department of Information Resources (DIR) Cooperative Contract

Members of Commissioners Court:

Please approve the purchase of the following on the basis of only quote:

Description: Subscription-Based Research and Related Services for Harris County Universal Services - Technology

Quote(s)

Received: One (1) (see attached)

Vendor(s): Gartner, Inc. (DIR-TSO-4099)

Term: through December 31, 2021 with four (4) one-year renewal options

Amount: \$432,943

Reviewed By: • Harris County Purchasing • Universal Services - Technology

Purchase order(s) will be issued upon Commissioners Court approval.

Sincerely,

DeWight Dopslauf
Purchasing Agent

JG
Attachment(s)
cc: Vendor(s)

FOR INCLUSION ON COMMISSIONERS COURT AGENDA MARCH 30, 2021



**ADDENDUM TO THE DIR AGREEMENT BETWEEN HARRIS COUNTY
AND GARTNER, INC.**

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

This Addendum to the above-referenced DIR Agreement is made and entered into by and between Harris County (“County” or “Customer”), a body corporate and politic under the laws of the State of Texas acting by and through the Harris County Universal Services, and Gartner, Inc. (“Vendor”). County and Vendor are referred to herein collectively as the “Parties” and individually as a “Party.”

Recitals

The County desires to acquire subscription-based research and related services (the “Services”), utilizing the State of Texas DIR contract, number DIR-TSO-4099.

Vendor warrants and represents it is capable of providing the Services and is willing to provide the Services to the County.

Terms

I.

The County desires to acquire subscription-based research and related services (the “Services”) in accordance with the State of Texas DIR contract, number DIR-TSO-4099. It is expressly understood and agreed that DIR-TSO-4099, the Contract for Services with all amendments and appendices, and the Addendum to the DIR Agreement between Harris County and Gartner, Inc. are all attached hereto as Exhibit A and incorporated herein by reference (the “Agreement”). In the event of any conflict between the terms and provisions of this Addendum, or any portion thereof, and the terms and provisions of any other part or portion of the Agreement or Exhibit A, this Addendum shall control.

II.

The Initial Term of this Agreement shall commence on January 1, 2021, and remain in full force and effect until December 31, 2021, unless earlier terminated in accordance with the terms of the Agreement. This Agreement may be renewed for four (4) additional one-year terms (each a “Renewal Term”) upon mutual agreement. Any Renewal Term shall be subject to the pricing under DIR-TSO-4099, or successor agreement, at the time of renewal.

III.

LIMIT OF APPROPRIATION

- A) Vendor understands and agrees, said understanding and agreement being of the absolute essence of this Agreement, that the total maximum compensation that Vendor may become entitled to for the Services performed under this Agreement, and the total maximum sum that the County shall become liable to pay Vendor under this Agreement, shall not under any conditions, circumstances, or interpretations thereof exceed the sum of Four Hundred Thirty-Two Thousand Nine Hundred Forty-Three and No/Dollars (\$432,943.00), as certified available by the County Auditor and evidenced through the issuance of a Purchase Order from the Harris County Purchasing Agent.
- B) Vendor understands and agrees, said understanding and agreement being of the absolute essence of this contract, that the total maximum compensation that Vendor may become entitled to hereunder, and the total maximum sum that the County shall become liable to pay to Vendor hereunder shall not under any conditions, circumstances, or interpretations thereof exceed the sum certified by the Purchase Order, unless mutually agreed upon in writing signed by both Parties. Notwithstanding anything to the contrary, or that may be construed to the contrary, the County's liability under the terms and provisions of the Agreement is limited to this sum. When all the funds so certified are expended, Vendor's sole and exclusive remedy shall be to terminate this Agreement.
- C) In the event the charges for the Services to be provided will equal or exceed the amount certified available, Vendor will notify the County immediately. If the amount certified is depleted prior to the end of the term of this Agreement, Vendor may terminate all Services upon the total depletion of the certified funds unless the County certifies additional funds, as evidenced by a written amendment to this Agreement and the Purchase Order, in which event Vendor shall continue to provide the Services to the extent funds are available.

IV.

NOTICE

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been delivered in person or deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or Vendor at the following addresses. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Vendor: Gartner, Inc.
56 Top Gallant Rd.
Stamford, CT 06904
Attn: Michael Hancock

To County: Harris County Universal Services
406 Caroline St.
Houston, Texas 77002
Attn: Sandra Popillion


Copy To: Harris County Purchasing Agent
1001 Preston, Suite 670
Houston, Texas 77002
Attn: Jorge Geronimo

Either Party may designate a different address by giving the other Party ten (10) days written notice.

V.

EXECUTION. Multiple Counterparts: This Addendum may be executed in several counterparts. Each counterpart is deemed an original. All counterparts together constitute one and the same instrument. Each Party warrants that the undersigned is a duly authorized representative with the power to execute this Addendum.

GARTNER, INC.

By: 
Name: Phillip A. Cummings
Title: Contracts Counsel
Date: 17 March 2021

HARRIS COUNTY

By: _____
LINA HIDALGO
COUNTY JUDGE

APPROVED AS TO FORM:
CHRISTIAN D. MENEFE
COUNTY ATTORNEY

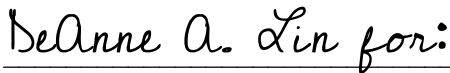
By: 
Cherelle Sims
Assistant County Attorney
C.A. File 21GEN0668

EXHIBIT A

State of Texas DIR Contract, Number DIR- TSO-4099, the Contract for Services with all
Amendments and Appendices

(follow behind)

**STATE OF TEXAS
DEPARTMENT OF INFORMATION RESOURCES**

CONTRACT FOR SERVICES

Gartner, Inc.

1. Introduction

A. Parties

This Contract for Services ("Contract") is entered into between the State of Texas ("State"), acting by and through the Department of Information Resources ("DIR") with its principal place of business at 300 West 15th Street, Suite 1300, Austin, Texas 78701, and *Gartner, Inc.* ("Vendor"), with its principal place of business at 56 Top Gallant Road, Stamford CT, 06902.

B. Compliance with Procurement Laws

This Contract is the result of compliance with applicable procurement laws of the State. DIR issued a solicitation on the Comptroller of Public Accounts' Electronic State Business Daily, Request for Offer (RFO) DIR-TSO-TMP-414, on August 8, 2017, for IT Research and Advisory Subscription Services. Upon execution of this Contract, a notice of award for RFO DIR-TSO-TMP-414 shall be posted by DIR on the Electronic State Business Daily.

C. Order of Precedence

This Contract; Appendix A, Standard Terms and Conditions For Services Contracts; Appendix B, Vendor's Historically Underutilized Businesses Subcontracting Plan; Appendix C, Pricing Index; Appendix D, Service Agreement; Exhibit 1, Vendor's Response to RFO DIR-TSO-TMP-414, including all addenda; and Exhibit 2, RFO DIR-TSO-TMP-414, including all addenda; are incorporated by reference and constitute the entire agreement between DIR and Vendor. In the event of a conflict between the documents listed in this paragraph, the controlling document shall be this Contract, then Appendix A, then Appendix B, then Appendix C, then Appendix D, then Exhibit 1, and finally Exhibit 2. In the event and to the extent any provisions contained in multiple documents address the same or substantially the same subject matter but do not actually conflict, the more recent provisions shall be deemed to have superseded earlier provisions.

2. Term of Contract

The initial term of this Contract shall be two (2) years commencing on the last date of approval by DIR and Vendor, with three (3) optional one-year renewals. Prior to expiration of each term, the contract will renew automatically under the same terms and conditions unless either party provides notice to the other party 60 days in advance of the renewal date stating that the party wishes to discuss modification of terms or not renew. Additionally, the parties by mutual agreement may extend the term for up to ninety (90) additional calendar days.

3. Service Offerings

Services available under this Contract are limited to IT Research and Advisory Subscription Services as specified in Appendix C, Pricing Index. Vendor may incorporate changes to their services offering; however, any changes must be within the scope of the RFO and services

awarded based on the posting described in Section 1.B above. Vendor may not add services which were not included in the Vendor's response to the solicitation described in Section 1.B above.

4. Pricing

Pricing to the DIR Customer shall be as set forth in Appendix A, Section 7, Pricing, Purchase Orders, Invoices and Payment, and as set forth in Appendix C, Pricing Index and shall include the DIR Administrative Fee.

5. DIR Administrative Fee

A) The administrative fee to be paid by the Vendor to DIR based on the dollar value of all sales to Customers pursuant to this Contract is three quarters of one percent (0.75%). Payment will be calculated for all sales, net of returns and credits. For example, the administrative fee for sales totaling \$100,000 shall be \$750.00.

B) All prices quoted to Customers shall include the administrative fee. DIR reserves the right to change this fee upwards or downwards during the term of this Contract, upon written notice to Vendor without further requirement for a formal contract amendment. Any change in the administrative fee shall be incorporated by Vendor in the price to the Customer.

6. Notification

All notices under this Contract shall be sent to a party at the respective address indicated below.

If sent to the State:

Kelly A Parker, CTPM, CTCM
Director, Cooperative Contracts
Department of Information Resources
300 W. 15th St., Suite 1300
Austin, Texas 78701
Phone: (512) 475-1647
Facsimile: (512) 475-4759
Email: kelly.parker@dir.texas.gov

If sent to the Vendor:

Phillip A. Cummings
Contracts Counsel
Gartner, Inc.
1201 Wilson Blvd 17th Floor;
Arlington VA 22209
Phone: (703) 387 - 5619
Facsimile: (800) 446-3597
Email: phillip.cummings@gartner.com

7. Service Agreement

A) Services provided under this Contract shall be in accordance with the Service Agreement as set forth in Appendix D of this Contract. No changes to the Service Agreement terms and conditions may be made unless previously agreed to by Vendor and DIR.

B) Conflicting or Additional Terms

In the event that conflicting or additional terms in Service Agreements or linked or supplemental documents amend or diminish the rights of DIR Customers or the State, such conflicting or additional terms shall not take precedence over the terms of this Contract.

In the event of a conflict, any linked documents may not take precedence over the printed or referenced documents comprising this contract; provided further that any update to such linked documents shall only apply to purchases or leases of the associated Vendor product or service offering after the effective date of the update; and, provided further, that, if Vendor has responded to a solicitation or request for pricing, no update of such linked documents on or after the initial date of Vendor's initial response shall apply to that purchase unless Vendor directly informs Customer of the update before the purchase is consummated.

In the event that different or additional terms or conditions would otherwise result from accessing a linked document, agreement to said linked document shall not be effective until reviewed and approved in writing by Customer's authorized signatory.

Vendor shall not [without prior written agreement from Customer's authorized signatory,] require any document that: 1) diminishes the rights, benefits, or protections of the Customer, or that alters the definitions, measurements, or method for determining any authorized rights, benefits, or protections of the Customer; or 2) imposes additional costs, burdens, or obligations upon Customer, or that alters the definitions, measurements, or method for determining any authorized costs, burdens, or obligations upon Customer.

If Vendor attempts to do any of the foregoing, the prohibited documents will be void and inapplicable to the contract between DIR and Vendor or Vendor and Customer, and Vendor will nonetheless be obligated to perform the contract without regard to the prohibited documents, unless Customer elects instead to terminate the contract, which in such case may be identified as a termination for cause against Vendor.

The foregoing requirements apply to all contracts, including, but not limited to, contracts between Customer and a reseller who attempts to pass through documents and obligations from its Manufacturer or Publisher.

8. Authorized Exceptions to Contract and any Appendices.

A. Appendix A, Section 4, Intellectual Property Matters, B. Ownership, is hereby amended and replaced in its entirety as follows:

B. Ownership

As between Vendor and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered "works made for hire" and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all

Vendor Contract No. _____

Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday thru Friday, 8AM to 5PM) and upon reasonable prior notice to Vendor, to all Vendor materials, premises and computer files containing the Work Product. Vendor and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third Party IP, except as may be incorporated in the Work Product by Vendor.

Ownership of Prior Rights by Customer – All tangible and intangible property including the Intellectual Property Rights therein, which are owned by Customer prior to the execution of any Statement of Work (e.g. copyrights, trademarks, etc.) shall to be exclusively owned by the Customer and Vendor shall have no ownership thereof and no rights thereto other than the limited, non-exclusive right to use such property for purposes set forth in a Statement of Work and only for the duration of such Statement of Work which is hereby granted to Vendor by Customer.

Ownership of Prior Rights by Vendor – All tangible and intangible property including the Intellectual Property Rights therein, which is owned by Vendor prior to the execution of any Statement of Work (e.g. pre-existing tools, processes, methodologies, proprietary research data and proprietary databases) (hereinafter “Pre-existing Vendor IP”) shall continue to be exclusively owned by the Vendor and Customer shall have no ownership thereof and no rights thereto other than the limited, non-exclusive right to use such Pre-existing Vendor IP for internal business use, solely for purposes set forth in a Statement of Work.

Ownership of Pre-Existing Right Embodied in Deliverables – Ownership Where Pre-Existing Rights become embodied in Works. To the extent any pre-existing rights or property of either party are embodied or contained in the Works, each party shall retain ownership of its pre-existing rights and property (e.g. Vendors pre-existing tools, processes, methodologies, proprietary research data, and proprietary databases) (hereinafter “Pre-existing Vendor IP”) shall continue to exclusively owned by Vendor and Customer shall have no ownership thereof, and no rights thereto other than the limited, non-exclusive right to use such Pre-existing Vendor IP for internal business use, solely for purposes set forth in a Statement of Work, which is hereby granted by Vendor.

- B. Appendix A, Section 9, Vendor Responsibilities, A. Indemnification, 2) Acts or Omissions,** is hereby amended and replaced in its entirety as follows:

2) Acts or Omissions

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any intentional, willful, reckless, negligent or otherwise wrongful acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY

GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

- C. **Appendix A, Section 9, Vendor Responsibilities, K. Limitation of Liability**, is hereby amended and replaced in its entirety as follows:

K. Limitation of Liability

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the greater of three (3) times the total amount paid to Vendor for the Statement of Work or Task Order that gave rise to the claim under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action or \$1,000,000. However, this limitation of Vendor's liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind.

Vendor Contract No. _____

This Contract is executed to be effective as of the date of last signature.

Gartner, Inc.

Authorized By: /Signature on File/

Name: Phillip A. Cummings

Title: Sr. Director Contracts Counsel

Date: 3/29/2018

The State of Texas, acting by and through the Department of Information Resources

Authorized By: /Signature on File/

Name: Hershel Becker

Title: Chief Procurement Officer

Date: 4/6/2018

Office of General Counsel: DB 4/6/2018

Appendix A:
Standard Terms and Conditions for Services Contracts

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Appendix A:
Standard Terms and Conditions for Services Contracts

1. No Quantity Guarantees:

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The Contract is not exclusive to the Vendor. Customers may obtain services from other sources during the term of the Contract. DIR makes no express or implied warranties whatsoever that any particular quantity or dollar amount of services will be procured through the Contract.

2. Definitions

A. Customer – any Texas state agency, unit of local government, institution of higher education as defined in Section 2054.003, Texas Government Code, the Electric Reliability Council of Texas, the Lower Colorado River Authority, a private school, as defined by Section 5.001, Education Code, a private or independent institution of higher education, as defined by Section 61.003, Education Code, a volunteer fire department, as defined by Section 152.001, Tax Code and those state agencies purchasing from a DIR contract through an Interagency Agreement, as authorized by Chapter 771, Texas Government Code, any local government as authorized through the Interlocal Cooperation Act, Chapter 791, Texas Government Code, the state agencies and political subdivisions of other states as authorized by Section 2054.0565, Texas Government Code, and, except for telecommunications services under Chapter 2170, Texas Government Code, assistance organizations as defined in Section 2175.001, Texas Government Code to mean:

- 1) A non-profit organization that provides educational, health or human services or assistance to homeless individuals;
- 2) A nonprofit food bank that solicits, warehouses, and redistributes edible but unmarketable food to an agency that feeds needy families and individuals;
- 3) Texas Partners of the Americas, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance Office of the Agency for International Development;
- 4) A group, including a faith-based group, that enters into a financial or non-financial agreement with a health or human services agency to provide services to that agency's clients;
- 5) A local workforce development board created under Section 2308.253;
- 6) A nonprofit organization approved by the Supreme Court of Texas that provides free legal services for low-income households in civil matters;
- 7) The Texas Boll Weevil Eradication Foundation, Inc., or an entity designated by the commissioner of agriculture as the foundation's successor entity under Section 74.1011, Texas Agriculture Code;
- 8) A nonprofit computer bank that solicits, stores, refurbishes and redistributes used computer equipment to public school students and their families; and
- 9) A nonprofit organization that provides affordable housing.

B. Compliance Check – an audit of Vendor's compliance with the Contract may be performed by, but not limited to, a third-party auditor, DIR Internal Audit department, or DIR contract management staff or their designees.

Appendix A:
Standard Terms and Conditions for Services Contracts

- C. Contract** – the document executed between DIR and Vendor into which this Appendix A is incorporated.
- D. CPA** – refers to the Texas Comptroller of Public Accounts.
- E. Day** – shall mean business days, Monday through Friday, except for State and Federal holidays, unless otherwise specified as calendar days. If the Contract calls for performance on a day that is not a business day, then performance is intended to occur on the next business day.
- F. Purchase Order** – the Customer’s fiscal form or format, which is used when making a purchase (e.g., formal written Purchase Order, Procurement Card, Electronic Purchase Order, or other authorized instrument).
- G. State** – refers to the State of Texas.

3. General Provisions

A. Entire Agreement

The Contract, Appendices, and Exhibits constitute the entire agreement between DIR and the Vendor. No statement, promise, condition, understanding, inducement or representation, oral or written, expressed or implied, which is not contained in the Contract, Appendices, or its Exhibits shall be binding or valid.

B. Modification of Contract Terms and/or Amendments

- 1)** The terms and conditions of the Contract shall govern all transactions by Customers under the Contract. The Contract may only be modified or amended upon mutual written agreement of DIR and Vendor.
- 2)** Customers shall not have the authority to modify the terms of the Contract; however, additional Customer terms and conditions that do not conflict with the Contract and are acceptable to Vendor may be added in a Purchase Order and given effect. No additional term or condition added in a Purchase Order issued by a Customer can conflict with or diminish a term or condition of the Contract. Pre-printed terms and conditions on any Purchase Order issued by Customer hereunder will have no force and effect. In the event of a conflict between a Customer’s Purchase Order and the Contract, the Contract term shall control.
- 3)** Customers and Vendor will negotiate and enter into written agreements regarding statements of work, service level agreements, remedies, acceptance criteria, information confidentiality and security requirements, and other terms specific to their Purchase Orders under the Contract with Vendor.

C. Invalid Term or Condition

- 1)** To the extent any term or condition in the Contract conflicts with the applicable Texas and/or United States law or regulation, such Contract term or condition is void and unenforceable. By executing a contract which contains the conflicting term or condition, DIR makes no representations or warranties regarding the enforceability of such term or condition and DIR does not waive the applicable State and/or United States law or regulation which conflicts with the Contract term or condition.

Appendix A:
Standard Terms and Conditions for Services Contracts

2) If one or more term or condition in the Contract, or the application of any term or condition to any party or circumstance, is held invalid, unenforceable, or illegal in any respect by a final judgment or order of the State Office of Administrative Hearings or a court of competent jurisdiction, the remainder of the Contract and the application of the term or condition to other parties or circumstances shall remain valid and in full force and effect.

D. Assignment

DIR or Vendor may assign the Contract without prior written approval to: i) a successor in interest (for DIR, another state agency as designated by the Texas Legislature), or ii) a subsidiary, parent company or affiliate, or iii) as necessary to satisfy a regulatory requirement imposed upon a party by a governing body with the appropriate authority. Assignment of the Contract under the above terms shall require written notification by the assigning party and, for Vendor, a mutually agreed written Contract amendment. Any other assignment by a party shall require the written consent of the other party and a mutually agreed written Contract amendment.

E. Survival

All applicable service agreements that were entered into between Vendor and a Customer under the terms and conditions of the Contract shall survive the expiration or termination of the Contract. All Purchase Orders issued and accepted by Vendor shall survive expiration or termination of the Contract for the term of the Purchase Order, unless the Customer terminates the Purchase Order sooner. However, regardless of the term of the Purchase Order, no Purchase Order shall survive the expiration or termination of the Contract for more than five years, unless Customer makes an express finding and justification for the longer term. The finding and justification must either be included in the Purchase Order, or referenced in it and maintained in Customer's procurement record. Rights and obligations under this Contract which by their nature should survive, including, but not limited to the DIR Administrative Fee; and any and all payment obligations invoiced prior to the termination or expiration hereof, obligations of confidentiality; and indemnification will remain in effect after termination or expiration hereof.

F. Choice of Law

The laws of the State shall govern the construction and interpretation of the Contract. Exclusive venue for all actions will be in state court, Travis County, Texas. Nothing in the Contract or its Appendices shall be construed to waive the State's sovereign immunity.

G. Limitation of Authority

Vendor shall have no authority to act for or on behalf of the Texas Department of Information Resources or the State except as expressly provided for in this Contract; no other authority, power or use is granted or implied. Vendor may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of the State or DIR.

Appendix A:
Standard Terms and Conditions for Services Contracts

H. Proof of Financial Stability

Either DIR or Customer may require Vendor to provide proof of financial stability prior to or at any time during the contract term.

4. Intellectual Property Matters

A. Definitions

1) “Work Product” means any and all deliverables produced by Vendor for Customer under a Statement of Work issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the effective date of the Contract, including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided to Customer under the Contract or a Statement of Work, and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created, prepared, developed, invented or conceived for the use or benefit of Customer in connection with this Contract or a Statement of Work, or with funds appropriated by or for Customer or Customer’s benefit: (a) by any Vendor personnel or Customer personnel, or (b) any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

2) “Intellectual Property Rights” means the worldwide legal rights or interests evidenced by or embodied in: (i) any idea, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.

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3) “Statement of Work” means a document signed by Customer and Vendor describing a specific set of activities and/or deliverables, which may include Work Product and Intellectual Property Rights, that Vendor is to provide Customer, issued pursuant to the Contract.

4) “Third Party IP” means the Intellectual Property Rights of any third party that is not a party to this Contract, and that is not directly or indirectly providing any goods or services to Customer under this Contract.

5) “Vendor IP” shall mean all tangible or intangible items or things, including the Intellectual Property Rights therein, created or developed by Vendor (a) prior to providing any Services or Work Product to Customer and prior to receiving any documents, materials, information or funding from or on behalf of Customer relating to the Services or Work Product, or (b) after the Effective Date of the Contract if such tangible or intangible items or things were independently developed by Vendor outside Vendor’s provision of Services or Work Product for Customer hereunder and were not created, prepared, developed, invented or conceived by any Customer personnel who then became personnel to Vendor or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Vendor or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

B. Ownership.

As between Vendor and Customer, the Work Product and Intellectual Property Rights therein are and shall be owned exclusively by Customer, and not Vendor. Vendor specifically agrees that the Work Product shall be considered “works made for hire” and that the Work Product shall, upon creation, be owned exclusively by Customer. To the extent that the Work Product, under applicable law, may not be considered works made for hire, Vendor hereby agrees that the Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to Customer all right, title and interest in and to all ownership rights in the Work Product, and all Intellectual Property Rights in the Work Product, without the necessity of any further consideration, and Customer shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Work Product. Vendor acknowledges that Vendor and Customer do not intend Vendor to be a joint author of the Work Product within the meaning of the Copyright Act of 1976. Customer shall have access, during normal business hours (Monday through Friday, 8AM to 5PM) and upon reasonable prior notice to Vendor, to all Vendor materials, premises and computer files containing the Work Product. Vendor and Customer, as appropriate, will cooperate with one another and execute such other documents as may be reasonably appropriate to achieve the objectives herein. No license or other right is granted hereunder to any Third-Party IP, except as may be incorporated in the Work Product by Vendor.

C. Further Actions.

Vendor, upon request and without further consideration, shall perform any acts that may be deemed reasonably necessary or desirable by Customer to evidence more fully

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the transfer of ownership and/or registration of all Intellectual Property Rights in all Work Product to Customer to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by Customer. In the event Customer shall be unable to obtain Vendor's signature due to the dissolution of Vendor or Vendor's unreasonable failure to respond to Customer's repeated requests for such signature on any document reasonably necessary for any purpose set forth in the foregoing sentence, Vendor hereby irrevocably designates and appoints Customer and its duly authorized officers and agents as Vendor's agent and Vendor's attorney-in-fact to act for and in Vendor's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by Vendor, provided however that no such grant of right to Customer is applicable if Vendor fails to execute any document due to a good faith dispute by Vendor with respect to such document. It is understood that such power is coupled with an interest and is therefore irrevocable. Customer shall have the full and sole power to prosecute such applications and to take all other action concerning the Work Product, and Vendor shall cooperate, at Customer's sole expense, in the preparation and prosecution of all such applications and in any legal actions and proceedings concerning the Work Product.

D. Waiver of Moral Rights.

Vendor hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Work Product which Vendor may now have or which may accrue to Vendor's benefit under U.S. or foreign copyright or other laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. Vendor acknowledges the receipt of equitable compensation for its assignment and waiver of such Moral Rights. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product, and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.

E. Confidentiality.

All documents, information and materials forwarded to Vendor by Customer for use in and preparation of the Work Product shall be deemed the confidential information of Customer, and subject to the license granted by Customer to Vendor under subparagraph H. hereunder. Vendor shall not use, disclose, or permit any person to use or obtain the Work Product, or any portion thereof, in any manner without the prior written approval of Customer.

F. Injunctive Relief.

The Contract is intended to protect Customer's proprietary rights pertaining to the Work Product, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to Customer's business. Therefore, Vendor acknowledges and stipulates that a court of competent jurisdiction

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may immediately enjoin any material breach of the intellectual property, use, and confidentiality provisions of this Contract, upon a request by Customer, without requiring proof of irreparable injury as same should be presumed.

G. Return of Materials Pertaining to Work Product.

Upon the request of Customer, but in any event upon termination or expiration of this Contract or a Statement of Work, Vendor shall surrender to Customer all documents and things pertaining to the Work Product, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by Vendor or furnished by Customer to Vendor, including all materials embodying the Work Product, any Customer confidential information, or Intellectual Property Rights in such Work Product, regardless of whether complete or incomplete. This section is intended to apply to all Work Product as well as to all documents and things furnished to Vendor by Customer or by anyone else that pertain to the Work Product.

H. Vendor License to Use.

Customer hereby grants to Vendor a non-transferable, non-exclusive, royalty-free, fully paid-up license to use any Work Product solely as necessary to provide the Services to Customer. Except as provided in this Section, neither Vendor nor any Subcontractor shall have the right to use the Work Product in connection with the provision of services to its other customers without the prior written consent of Customer, which consent may be withheld in Customer's sole discretion.

I. Third-Party Underlying and Derivative Works.

To the extent that any Vendor IP or Third Party IP are embodied or reflected in the Work Product, or are necessary to provide the Services, Vendor hereby grants to the Customer, or shall obtain from the applicable third party for Customer's benefit, the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license, for Customer's internal business purposes only, to (i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such Vendor IP or Third Party IP and any derivative works thereof embodied in or delivered to Customer in conjunction with the Work Product, and (ii) authorize others to do any or all of the foregoing. Vendor agrees to notify Customer on delivery of the Work Product or Services if such materials include any Third-Party IP. On request, Vendor shall provide Customer with documentation indicating a third party's written approval for Vendor to use any Third-Party IP that may be embodied or reflected in the Work Product.

J. Agreement with Subcontracts.

Vendor agrees that it shall have written agreement(s) that are consistent with the provisions hereof related to Work Product and Intellectual Property Rights with any employees, agents, consultants, contractors or subcontractors providing Services or Work Product pursuant to the Contract, prior to their providing such Services or Work Product, and that it shall maintain such written agreements at all times during performance of this Contract, which are sufficient to support all performance and

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grants of rights by Vendor. Copies of such agreements shall be provided to the Customer promptly upon request.

K. License to Customer.

Vendor grants to Customer, a perpetual, irrevocable, royalty free license, solely for the Customer's internal business purposes, to use, copy, modify, display, perform (by any means), transmit and prepare derivative works of any Vendor IP embodied in or delivered to Customer in conjunction with the Work Product. The foregoing license includes the right to sublicense third parties, solely for the purpose of engaging such third parties to assist or carryout Customer's internal business use of the Work Product. Except for the preceding license, all rights in Vendor IP remain in Vendor.

L. Vendor Development Rights.

To the extent not inconsistent with Customer's rights in the Work Product or as set forth herein, nothing in this Contract shall preclude Vendor from developing for itself, or for others, materials which are competitive with those produced as a result of the Services provided hereunder, provided that no Work Product is utilized, and no Intellectual Property Rights of Customer therein are infringed by such competitive materials. To the extent that Vendor wishes to use the Work Product, or acquire licensed rights in certain Intellectual Property Rights of Customer therein in order to offer competitive goods or services to third parties, Vendor and Customer agree to negotiate in good faith regarding an appropriate license and royalty agreement to allow for such.

5. Terms and Conditions Applicable to State Agency Purchases Only:

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

A. Electronic and Information Resources Accessibility Standards, As Required by 1 TAC Chapters 206 and 213 (Applicable to State Agency and Institution of Higher Education Purchases Only)

1) Effective September 1, 2006 state agencies and institutions of higher education shall procure products which comply with the State Accessibility requirements for Electronic and Information Resources specified in 1 TAC Chapters 206 and 213 when such products are available in the commercial marketplace or when such products are developed in response to a procurement solicitation.

2) Upon request, but not later than thirty (30) calendar days after request, Vendor shall provide DIR with a completed Voluntary Product Accessibility Template (VPAT) of the specified product or a URL to the VPAT for reviewing compliance with the State Accessibility requirements (based on the federal standards established under Section 508 of the Rehabilitation Act).

B. Purchase of Commodity Items (Applicable to State Agency Purchases Only)

1) Texas Government Code, §2157.068 requires State agencies to buy commodity items, as defined in 5.B.2, below, in accordance with contracts developed by DIR, unless the agency obtains an exemption from DIR or a written certification that a commodity is not on DIR contract (for the limited purpose of purchasing from a local

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government purchasing cooperative).

2) Commodity items are commercially available software, hardware and technology services that are generally available to businesses or the public and for which DIR determines that a reasonable demand exists in two or more state agencies. Hardware is the physical technology used to process, manage, store, transmit, receive or deliver information. Software is the commercially available programs that operate hardware and includes all supporting documentation, media on which the software may be contained or stored, related materials, modifications, versions, upgrades, enhancements, updates or replacements. Technology services are the services, functions and activities that facilitate the design, implementation, creation, or use of software or hardware. Technology services include seat management, staffing augmentation, training, maintenance and subscription services. Technology services do not include telecommunications services. Seat management is services through which a state agency transfers its responsibilities to a vendor to manage its personal computing needs, including all necessary hardware, software and technology services.

3) Vendor agrees to coordinate all State agency commodity item sales through existing DIR contracts. Institutions of higher education are exempt from this Subsection 5.B.

6. Contract Fulfillment and Promotion

A. Service, Sales and Support of the Contract

Vendor shall provide service, sales and support resources to serve all Customers throughout the State. It is the responsibility of the Vendor to sell, market, and promote services available under the Contract. Vendor shall use its best efforts to ensure that potential Customers are made aware of the existence of the Contract. All sales to Customers for services available under the Contract shall be processed through the Contract.

B. Internet Access to Contract and Pricing Information

1) Vendor Webpage

Within thirty (30) calendar days of the effective date of the Contract, Vendor will establish and maintain a webpage specific to the services awarded under the Contract that are clearly distinguishable from other, non-DIR Contract offerings on the Vendor's website. The webpage must include:

- a) the services awarded;
- b) description of product and service awarded
- c) a current price list or mechanism (for example, a services calculator or product builder) to obtain specific contracted pricing;
- d) discount percentage (%) off MSRP or List Price;
- e) designated Order Fulfillers;
- f) contact information (name, telephone number and email address) for Vendor and designated Order Fulfillers;

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- g) instructions for obtaining quotes and placing Purchase Orders;
- h) warranty policies;
- i) return policies;
- j) the DIR Contract number with a hyperlink to the Contract's DIR webpage;
- k) a link to the DIR "Cooperative Contracts" webpage; and
- l) the DIR logo in accordance with the requirements of this Section.

If Vendor does not meet the webpage requirements listed above, DIR may cancel the contract without penalty.

2) Accurate and Timely Contract Information

Vendor warrants and represents that the website information specified in the above paragraph will be accurately and completely posted, maintained and displayed in an objective and timely manner. Vendor, at its own expense, shall correct any non-conforming or inaccurate information posted at Vendor's website within ten (10) business days after written notification by DIR.

3) Webpage Compliance Checks

Periodic compliance checks of the information posted for the Contract on Vendor's webpage will be conducted by DIR. Upon request by DIR, Vendor shall provide verifiable documentation that pricing listed upon this webpage is compliant with the pricing as stated in the Contract.

4) Webpage Changes

Vendor hereby consents to a link from the DIR website to Vendor's webpage in order to facilitate access to Contract information. The establishment of the link is provided solely for convenience in carrying out the business operations of the State. DIR reserves the right to suspend, terminate or remove a link at any time, in its sole discretion, without advance notice, or to deny a future request for a link. DIR will provide Vendor with subsequent notice of link suspension, termination or removal. Vendor shall provide DIR with timely written notice of any change in URL or other information needed to access the site and/or maintain the link.

5) Use of Access Data Prohibited

If Vendor stores, collects or maintains data electronically as a condition of accessing Contract information, such data shall only be used internally by Vendor for the purpose of implementing or marketing the Contract, and shall not be disseminated to third parties or used for other marketing purposes. The Contract constitutes a public document under the laws of the State and Vendor shall not restrict access to Contract terms and conditions including pricing, i.e., through use of restrictive technology or passwords.

6) Responsibility for Content

Vendor is solely responsible for administration, content, intellectual property rights, and all materials at Vendor's website. DIR reserves the right to require a change of

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listed content if, in the opinion of DIR, it does not adequately represent the Contract.

C. Services Warranty and Return Policies

Vendor and Order Fulfiller will adhere to the Vendor's then-currently published policies concerning services warranties and returns. Such policies for Customers will not be more restrictive or more costly than warranty and return policies for other similarly situated Customers for like services.

D. DIR Logo

Vendor may use the DIR logo in the promotion of the Contract to Customers with the following stipulations: (i) the logo may not be modified in any way, (ii) when displayed, the size of the DIR logo must be equal to or smaller than the Vendor logo, (iii) the DIR logo is only used to communicate the availability of services under the Contract to Customers, and (iv) any other use of the DIR logo requires prior written permission from DIR.

E. Vendor Logo

If DIR receives Vendor's prior written approval, DIR may use the Vendor's name and logo in the promotion of the Contract to communicate the availability of services under the Contract to Customers. Use of the logos may be on the DIR website or on printed materials. Any use of Vendor's logo by DIR must comply with and be solely related to the purposes of the Contract and any usage guidelines communicated to DIR from time to time. Nothing contained in the Contract will give DIR any right, title, or interest in or to Vendor's trademarks or the goodwill associated therewith, except for the limited usage rights expressly provided by Vendor.

F. Trade Show Participation

At DIR's discretion, Vendor may be required to participate in no more than two DIR sponsored trade shows each calendar year. Vendor understands and agrees that participation, at the Vendor's expense, includes providing a manned booth display or similar presence. DIR will provide four months advance notice of any required participation. Vendor must display the DIR logo at all trade shows that potential Customers will attend. DIR reserves the right to approve or disapprove of the location or the use of the DIR logo in or on the Vendor's booth.

G. Orientation Meeting

Within thirty (30) calendar days from execution of the Contract, Vendor and Order Fulfillers will be required to attend an orientation meeting to discuss the content and procedures of the Contract to include reporting requirements. DIR, at its discretion, may waive the orientation requirement for Vendors who have previously held DIR contracts. The meeting will be held in the Austin, Texas area at a date and time mutually acceptable to DIR and the Vendor or by teleconference, at DIR's discretion. DIR shall bear no cost for the time and travel of the Vendor or Order Fulfillers for attendance at the meeting.

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H. Performance Review Meetings

DIR may require the Vendor to attend periodic meetings to review the Vendor's performance under the Contract, at DIR's discretion. The meetings may be held within the Austin, Texas area at a date and time mutually acceptable to DIR and the Vendor or by teleconference. DIR shall bear no cost for the time and travel of the Vendor for attendance at the meeting.

I. DIR Cost Avoidance

As part of the performance measures reported to state leadership, DIR must provide the cost avoidance the State has achieved through the Contract. Upon request by DIR, Vendor shall provide DIR with a detailed report of a representative sample of service sold under the Contract. The report shall contain: service description, list price, price to Customer under the Contract.

7. Pricing, Purchase Orders, Invoices, and Payments

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED FOR A-F, H-J

A. Manufacturer's Suggested Retail Price (MSRP) or List Price

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

MSRP is defined as the product sales price list published in some form by the manufacturer or publisher of a product and available to and recognized by the trade. A price list especially prepared for a given solicitation is not acceptable.

B. Customer Discount

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The minimum Customer discount for all services will be the percentage off MSRP as specified in Appendix C, Pricing Index.

C. Customer Price

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED FOR SECTION C1

1) The price to the Customer shall be calculated as follows:

Customer Price = (MSRP or List Price – Customer Discount as set forth in Appendix C, Pricing Index) x (1 + DIR Administrative Fee, as set forth in the Contract).

2) Customers purchasing services under this Contract may negotiate more advantageous pricing or participate in special promotional offers. In such event, a copy of such better offerings shall be furnished to DIR upon request.

3) If pricing for services available under this Contract is provided by the Vendor at a lower price to: (i) an eligible Customer who is not purchasing those services under this Contract or (ii) to any other customer under the same terms and conditions provided for the State for the same commodities and services under this contract, then the available Customer Price in this Contract shall be adjusted to that lower price. This requirement applies to services quoted by Vendor or its resellers for a quantity of one (1) under like terms and conditions, and does not apply to volume or special pricing

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purchases. Vendor shall notify DIR within ten (10) days and this Contract shall be amended days to reflect the lower price.

D. Shipping and Handling Fees

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The price to the Customer under this Contract shall include all shipping and handling fees. Shipments will be Free On Board Customer's Destination. No additional fees shall be charged to the Customer for standard shipping and handling. If the Customer requests expedited or special delivery, Customer will be responsible for any charges for expedited or special delivery.

E. Tax-Exempt

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

As per Section 151.309, Texas Tax Code, Customers under this Contract are exempt from the assessment of State sales, use and excise taxes. Further, Customers under this Contract are exempt from Federal Excise Taxes, 26 United States Code Sections 4253(i) and (j). Customers shall provide evidence of tax-exempt status to Vendor upon request.

F. Travel Expense Reimbursement

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Pricing for services provided under this Contract are exclusive of any travel expenses that may be incurred in the performance of those services. Travel expense reimbursement may include personal vehicle mileage or commercial coach transportation, hotel accommodations, parking and meals; provided, however, the amount of reimbursement by Customers shall not exceed the amounts authorized for state employees as adopted by each Customer; and provided, further, that all reimbursement rates shall not exceed the maximum rates established for state employees under the current State Travel Management Program (<http://www.window.state.tx.us/procurement/prog/stmp/>). Travel time may not be included as part of the amounts payable by Customer for any services rendered under this Contract. The DIR administrative fee specified in the contract is not applicable to travel expense reimbursement. Anticipated travel expenses must be pre-approved in writing by Customer. Customer reserves the right not to pay travel expenses which are not pre-approved in writing by the Customer.

G. Changes to Prices

Subject to the requirements of this section, Vendor may change the price of any product or service at any time, based upon changes to the MSRP, but discount levels shall remain consistent with the discount levels specified in this Contract.

Vendor may revise its pricing (but not its discount rate, if any, and not the services on its contract pricing list) by posting a revised pricing list. Such revised pricing lists are subject to review by DIR. If DIR finds that a product's or service's price has been increased unreasonably, DIR may request Vendor to reduce its pricing for the product or service to the level published before the revision Vendor must reduce its pricing, or remove the product from its pricing list. Failure to do so will constitute an act of default by Vendor.

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H. Purchase Orders

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

All Customer Purchase Orders will be placed directly with the Vendor. Accurate Purchase Orders shall be effective and binding upon Vendor when accepted by Vendor. Customer and Vendor may work together to include specific requirements as to what constitutes a valid Purchase Order.

Vendors will be required to comply with the disclosure requirements of Section 2252.908, Texas Government Code, as enacted by House Bill 1295, 84th Regular Session, when execution of a contract requires an action or vote by the governing body of a governmental entity before the contract may be signed.

I. Invoices

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Invoices shall be submitted by the Vendor directly to the Customer and shall be issued in compliance with Chapter 2251, Texas Government Code. All payments for services purchased under the Contract and any provision of acceptance of such services shall be made by the Customer to the Vendor. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Vendor will agree to acceptable terms.

2) Invoices must be timely and accurate. Each invoice must match Customer's Purchase Order and include any written changes that may apply, as it relates to services, prices and quantities. Invoices must include the Customer's Purchase Order number or other pertinent information for verification of receipt of the services by the Customer.

3) The administrative fee specified in the contract shall not be broken out as a separate line item when pricing or invoice is provided to Customer.

J. Payments

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Customers shall comply with Chapter 2251, Texas Government Code, in making payments to Vendor. The statute states that payments for goods and services are due thirty (30) calendar days after the goods are provided, the services completed, or a correct invoice is received, whichever is later. Payment under the Contract shall not foreclose the right to recover wrongful payments. For Customers that are not subject to Chapter 2251, Texas Government Code, Customer and Vendor will agree to acceptable terms.

8. Contract Administration

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED FOR A, C-D

A. Contract Managers

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

DIR and the Vendor will each provide a Contract Manager to support the Contract.

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Information regarding the Contract Managers will be posted on the Internet website designated for the Contract.

1) State Contract Manager

DIR shall provide a Contract Manager whose duties shall include but not be limited to: i) advising DIR and Vendor of Vendor's performance under the terms and conditions of the Contract, and ii) periodic verification of pricing and, iii) verification of monthly reports submitted by Vendor.

2) Vendor Contract Manager

Vendor shall identify a specific Contract Manager whose duties shall include but not be limited to: i) supporting the marketing and management of the Contract, ii) facilitating dispute resolution between Vendor and a Customer, and iii) advising DIR of Vendor's performance under the terms and conditions of the Contract. DIR reserves the right to require a change in Vendor's then-current Contract Manager if the assigned Contract Manager is not, in the reasonable opinion of DIR, adequately serving the needs of the State.

B. Reporting and Administrative Fees

1) Reporting Responsibility

a) Vendor shall be responsible for reporting all services purchased under the Contract. Vendor shall file the monthly reports, subcontract reports, and pay the administrative fees in accordance with the due dates specified in this section.

b) DIR shall have the right to verify required reports and to take any actions necessary to enforce its rights under this section, including but not limited to compliance checks of Vendor's applicable Contract. Vendor will provide all required documentation at no cost.

2) Detailed Monthly Report

Vendor shall electronically provide DIR with a detailed monthly report in the format required by DIR showing the dollar volume of any and all sales under the Contract for the previous calendar month period. Reports are due on the fifteenth (15th) calendar day of the month following the month of the sale. If the 15th calendar day falls on a weekend or state or federal holiday, the report shall be due on the next business day. The monthly report shall include, per transaction: the detailed sales for the period, Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the estimated administrative fee for the reporting period, subcontractor name, EPEAT designation (if applicable), configuration (if applicable), contract discount percentage, actual discount percentage, negotiated contract price (if fixed price is offered instead of discount off of MSRP), and other information as required by DIR. Each report must contain all information listed above per transaction or the report will be rejected and returned to the Vendor for correction in accordance with this section. Vendor shall report in a manner required by DIR which is subject to change dependent upon DIR's business needs. Failure to do so may result in contract termination.

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3) Historically Underutilized Businesses Subcontract Reports

a) Vendor shall electronically provide each Customer with Vendor's relevant Historically Underutilized Business Subcontracting Report, pursuant to the Contract, as required by Chapter 2161, Texas Government Code. Reports shall also be submitted to DIR.

b) Reports shall be due in accordance with the CPA rules.

4) DIR Administrative Fee

a) The Vendor shall pay an administrative fee to DIR to defray the DIR costs of negotiating, executing, and administering the Contract. The maximum administrative fee is set by the Texas Legislature in the biennial General Appropriations Act. DIR will review Vendor monthly sales reports, close the sales period, and notify the Vendor of the administrative fee no later than the fourteenth (14th) day of the second month following the date of the reported sale. Vendor shall pay the administrative fee by the twenty-fifth (25th) calendar day of the second month following the date of the reported sale. For example, Vendor reports January sales by February 15th; DIR closes January sales and notifies Vendor of administrative fee by March 14th; Vendor submits administrative fee for January sales by March 25th.

b) DIR may change the amount of the administrative fee upon thirty (30) calendar days written notice to Vendor without the need for a formal contract amendment.

c) Vendor shall reference the DIR Contract number, reporting period, and administrative fee amount on any remittance instruments.

5) Accurate and Timely Submission of Reports

a) The reports and administrative fees shall be accurate and timely and submitted in accordance with the due dates specified in this section. Vendor shall correct any inaccurate reports or administrative fee payments within three (3) business days upon written notification by DIR. Vendor shall deliver any late reports or late administrative fee payments within three (3) business days upon written notification by DIR. If Vendor is unable to correct inaccurate reports or administrative fee payments or deliver late reports and fee payments within three (3) business days, Vendor must contact DIR and provide a corrective plan of action, including the timeline for completion of correction. The corrective plan of action shall be subject to DIR approval.

b) Should Vendor fail to correct inaccurate reports or cure the delay in timely delivery of reports and payments within the corrective plan of action timeline, DIR reserves the right to require an independent third party audit of the Vendor's records as specified in C.3 of this Section, at Vendor's expense. DIR will select the auditor (and all payments to auditor will require DIR approval).

c) Failure to timely submit three (3) reports or administrative fee payments within any rolling twelve (12) month period may, at DIR's discretion, result in the addition of late fees of \$100/day for each day the report or payment is due (up to \$1000/month) or suspension or termination of Vendor's Contract.

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C. Records and Audit

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED IN SUBPARAGRAPH 1.

- 1) Acceptance of funds under the Contract by Vendor acts as acceptance of the authority of the State Auditor's Office, or any successor agency or designee, to conduct an audit or investigation in connection with those funds. Vendor further agrees to cooperate fully with the State Auditor's Office or its successor or designee in the conduct of the audit or investigation, including providing all records requested. Vendor will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Vendor and the requirement to cooperate is included in any subcontract it awards pertaining to the Contract. Under the direction of the Legislative Audit Committee, a Vendor that is the subject of an audit or investigation by the State Auditor's Office must provide the State Auditor's Office with access to any information the State Auditor's Office considers relevant to the investigation or audit.
- 2) Vendor shall maintain adequate records to establish compliance with the Contract until the later of a period of seven (7) years after termination of the Contract or until full, final and unappealable resolution of all Compliance Check or litigation issues that arise under the Contract. Such records shall include per transaction: Customer name, invoice date, invoice number, description, quantity, MSRP or List Price, unit price, extended price, Customer Purchase Order number, contact name, Customer's complete billing address, the calculations supporting each administrative fee owed DIR under the Contract, Historically Underutilized Businesses Subcontracting reports, and such other documentation as DIR may request.
- 3) Vendor and/or Order Fulfillers shall grant access to all paper and electronic records, books, documents, accounting procedures, practices, customer records including but not limited to contracts, agreements, purchase orders and statements of work, and any other items relevant to the performance of the Contract to the DIR Internal Audit department or DIR Contract Management staff, including the compliance checks designated by the DIR Internal Audit department, DIR Contract Management staff, the State Auditor's Office, and of the United States, and such other persons or entities designated by DIR for the purposes of inspecting, Compliance Checking and/or copying such books and records. Vendor and/or Order Fulfillers shall provide copies and printouts requested by DIR without charge. DIR shall provide Vendor and/or Order Fulfillers ten (10) business days' notice prior to inspecting, Compliance Checking, and/or copying Vendor's and/or Order Fulfiller's records. Vendor's and/or Order Fulfillers records, whether paper or electronic, shall be made available during regular office hours. Vendor and/or Order Fulfiller personnel familiar with the Vendor's and/or Order Fulfiller's books and records shall be available to the DIR Internal Audit department, or DIR Contract Management staff and designees as needed. Vendor and/or Order Fulfiller shall provide adequate office space to DIR staff during the performance of Compliance Check. If Vendor is found to be responsible for inaccurate reports, DIR may invoice for the reasonable costs of the audit, which Vendor must pay within thirty (30) calendar days of receipt.
- 4) For procuring State Agencies whose payments are processed by the Texas Comptroller of Public Accounts, the volume of payments made to Vendor through the

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Texas Comptroller of Public Accounts and the administrative fee based thereon shall be presumed correct unless Vendor can demonstrate to DIR's satisfaction that Vendor's calculation of DIR's administrative fee is correct.

D. Contract Administration Notification

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Prior to execution of the Contract, Vendor shall provide DIR with written notification of the following: i) Vendor Contract Administrator name and contact information, ii) Vendor sales representative name and contact information, and iii) name and contact information of Vendor personnel responsible for submitting reports and payment of administrative fees.

2) Upon execution of the Contract, DIR shall provide Vendor with written notification of the following: i) DIR Contract Administrator name and contact information, and ii) DIR Cooperative Contracts E-Mail Box information.

9. Vendor Responsibilities

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED IN C-M, O-S, V-W.

A. Indemnification

1) INDEPENDENT CONTRACTOR

VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, IT IS FURNISHING SERVICES IN THE CAPACITY OF AN INDEPENDENT CONTRACTOR AND THAT VENDOR IS NOT AN EMPLOYEE OF THE CUSTOMER OR THE STATE OF TEXAS.

2) Acts or Omissions

Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of the Vendor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3) Infringements

a) Vendor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third-

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party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF VENDOR PURSUANT TO THIS CONTRACT. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

b) Vendor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Vendor's written approval, (iii) any modifications made to the product by the Vendor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

c) If Vendor becomes aware of an actual or potential claim, or Customer provides Vendor with notice of an actual or potential claim, Vendor may (or in the case of an injunction against Customer, shall), at Vendor's sole option and expense: (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

4) PROPERTY DAMAGE

IN THE EVENT OF LOSS, DAMAGE, OR DESTRUCTION OF ANY PROPERTY OF CUSTOMER OR THE STATE DUE TO THE NEGLIGENCE, MISCONDUCT, WRONGFUL ACT OR OMISSION ON THE PART OF THE VENDOR, ITS EMPLOYEES, AGENTS, REPRESENTATIVES, OR SUBCONTRACTORS, THE VENDOR SHALL PAY THE FULL COST OF EITHER REPAIR, RECONSTRUCTION, OR REPLACEMENT OF THE PROPERTY, AT THE CUSTOMER'S SOLE ELECTION. SUCH COST SHALL BE DETERMINED BY THE CUSTOMER AND SHALL BE DUE AND PAYABLE BY THE VENDOR NINETY (90) CALENDAR DAYS AFTER THE DATE OF THE VENDORS RECEIPT FROM THE CUSTOMER OF A WRITTEN NOTICE OF THE AMOUNT DUE.

B. Taxes/Worker's Compensation/UNEMPLOYMENT INSURANCE

1) VENDOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, VENDOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF VENDOR'S AND

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VENDOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. VENDOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE CUSTOMER AND/OR THE STATE SHALL NOT BE LIABLE TO THE VENDOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

2) VENDOR AGREES TO INDEMNIFY AND HOLD HARMLESS CUSTOMERS, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. VENDOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY VENDOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. VENDOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

C. Vendor Certifications

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor certifies on behalf of Vendor and its designated Order Fulfillers that they:

- (i) have not given, offered to give, and do not intend to give at any time hereafter any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant in connection with the Contract;
- (ii) are not currently delinquent in the payment of any franchise tax owed the State and are not ineligible to receive payment under §231.006 of the Texas Family Code and acknowledge the Contract may be terminated and payment withheld if this certification is inaccurate;
- (iii) neither they, nor anyone acting for them, have violated the antitrust laws of the United States or the State, nor communicated directly or indirectly to any competitor or any other person engaged in such line of business for the purpose of obtaining an unfair price advantage;
- (iv) have not received payment from DIR or any of its employees for participating in the preparation of the Contract;

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- (v) under Section 2155.004, Texas Government Code, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate;
- (vi) to the best of their knowledge and belief, there are no suits or proceedings pending or threatened against or affecting them, which if determined adversely to them will have a material adverse effect on the ability to fulfill their obligations under the Contract;
- (vii) Vendor and its principals are not suspended or debarred from doing business with the federal government as listed in the *System for Award Management (SAM)* maintained by the General Services Administration;
- (viii) as of the effective date of the Contract, are not listed in the prohibited vendors list authorized by Executive Order #13224, "*Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism*", published by the United States Department of the Treasury, Office of Foreign Assets Control;
- (ix) Vendor represents and warrants that, for its performance of this contract, it shall purchase products and materials produced in the State of Texas when available at the price and time comparable to products and materials produced outside the state, to the extent that such is required under Texas Government Code, Section 2155.4441;
- (x) agrees that all equipment and materials used in fulfilling the requirements of this contract are of high-quality and consistent with or better than applicable industry standards, if any. All Works and Services performed pursuant to this Contract shall be of high professional quality and workmanship and according consistent with or better than applicable industry standards, if any;
- (xi) agree that any payments due under this contract will be applied towards any debt, including but not limited to delinquent taxes and child support that is owed to the State of Texas;
- (xii) are in compliance Section 669.003, Texas Government Code, relating to contracting with executive head of a state agency;
- (xiii) represent and warrant that the provision of goods and services or other performance under the Contract will not constitute an actual or potential conflict of interest and certify that they will not reasonably create the appearance of impropriety, and, if these facts change during the course of the Contract, certify they shall disclose the actual or potential conflict of interest and any circumstances that create the appearance of impropriety;
- (xiv) under Section 2155.006 and Section 2261.053, Texas Government Code, are not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate;

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- (xv) have complied with the Section 556.0055, Texas Government Code, restriction on lobbying expenditures. In addition, Vendor acknowledges the applicability of §2155.444 and §2155.4441, Texas Government Code, in fulfilling the terms of the Contract; and
- (xvi) represent and warrant that the Customer's payment and their receipt of appropriated or other funds under this Agreement are not prohibited by Sections 556.005 or Section 556.008, Texas Government Code; and
- (xvii) represent and warrant that in accordance with Section 2270.002 of the Texas Government Code, by signature hereon, Vendor does not boycott Israel and will not boycott Israel during the term of this Contract.

During the term of the Contract, Vendor shall, for itself and on behalf of its Order Fulfillers, promptly disclose to DIR all changes that occur to the foregoing certifications, representations and warranties. Vendor covenants to fully cooperate in the development and execution of resulting documentation necessary to maintain an accurate record of the certifications, representations and warranties.

In addition, Vendor understands and agrees that if Vendor responds to certain Customer pricing requests or Statements of Work, then, in order to contract with the Customer, Vendor may be required to comply with additional terms and conditions or certifications that an individual customer may require due to state and federal law (e.g., privacy and security requirements).

D. Ability to Conduct Business in Texas

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor and its Order Fulfillers shall be authorized and validly existing under the laws of its state of organization, and shall be authorized to do business in the State of Texas in accordance with Texas Business Organizations Code, Title 1, Chapter 9.

E. Equal Opportunity Compliance

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor agrees to abide by all applicable laws, regulations, and executive orders pertaining to equal employment opportunity, including federal laws and the laws of the State in which its primary place of business is located. In accordance with such laws, regulations, and executive orders, the Vendor agrees that no person in the United States shall, on the grounds of race, color, religion, national origin, sex, age, veteran status or handicap, be excluded from employment with or participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity performed by Vendor under the Contract. If Vendor is found to be not in compliance with these requirements during the term of the Contract, Vendor agrees to take appropriate steps to correct these deficiencies. Upon request, Vendor will furnish information regarding its nondiscriminatory hiring and promotion policies, as well as specific information on the composition of its principals and staff, including the identification of minorities and women in management or other positions with discretionary or decision-making authority.

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F. Use of Subcontractors and Designation of Order Fulfillers

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

If Vendor uses any subcontractors in the performance of this Contract, Vendor must make a good faith effort in the submission of its Subcontracting Plan in accordance with the State's Policy on Utilization of Historically Underutilized Businesses (HUB). A revised Subcontracting Plan approved by DIR's HUB Office shall be required before Vendor can engage additional subcontractors in the performance of this Contract. A revised Subcontracting Plan approved by DIR's HUB Office shall be required before Vendor can remove subcontractors currently engaged in the performance of this Contract. Vendor shall remain solely responsible for the performance of its obligations under the Contract.

Vendors who submit Order Fulfillers must indicate whether (a) the Order Fulfiller(s) will provide sales and marketing of the Vendor's services only or (b) the Order Fulfiller(s) will provide technical services in addition to sales and marketing of the Vendor's services. If Vendor wishes to engage additional Order Fulfiller(s) to provide technical services after Contract execution, Vendor must submit the qualifications of Order Fulfiller(s) to the DIR Contract Manager for approval (in addition to meeting HUB requirements) prior to inclusion of such Order Fulfiller.

G. Responsibility for Actions

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

- 1) Vendor is solely responsible for its actions and those of its agents, employees, or subcontractors, and agrees that neither Vendor nor any of the foregoing has any authority to act or speak on behalf of DIR or the State.
- 2) Vendor, for itself and on behalf of its subcontractors, shall report to DIR promptly when the disclosures under the Certification Statement of Exhibit A to the RFO and/or Section 9.C. (x), Vendor Certifications of this Appendix A to the Contract change. Vendor covenants to fully cooperate with DIR to update and amend the Contract to accurately disclose the status of conflicts of interest.

H. Confidentiality

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

- 1) Vendor acknowledges that DIR and Customers that are governmental bodies as defined by Texas Government Code, Section 552.003 are subject to the Texas Public Information Act. Vendor also acknowledges that DIR and Customers that are state agencies will comply with the Public Information Act, and with all opinions of the Texas Attorney General's office concerning this Act.
- 2) Under the terms of the Contract, DIR may provide Vendor with information related to Customers. Vendor shall not re-sell or otherwise distribute or release Customer information to any party in any manner.

I. Security of Premises, Equipment, Data and Personnel

Vendor and/or Order Fulfiller may, from time to time during the performance of the Contract, have access to the personnel, premises, equipment, and other property, including data, files and /or materials (collectively referred to as "Data") belonging to

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the Customer. Vendor shall use their best efforts to preserve the safety, security, and the integrity of the personnel, premises, equipment, Data and other property of the Customer, in accordance with the instruction of the Customer. Vendor shall be responsible for damage to Customer's equipment, workplace, and its contents when such damage is caused by its employees or subcontractors. If a Vendor fails to comply with Customer's security requirements, then Customer may immediately terminate its Purchase Order and related Service Agreement.

J. Background and/or Criminal History Investigation

Prior to commencement of any services, background and/or criminal history investigation of the Vendor's employees and subcontractors who will be providing services to the Customer under the Contract may be performed by the Customer. Should any employee or subcontractor of the Vendor who will be providing services to the Customer under the Contract not be acceptable to the Customer as a result of the background and/or criminal history check, then Customer may immediately terminate its Purchase Order and related Service Agreement or request replacement of the employee or subcontractor in question.

K. Limitation of Liability

For any claim or cause of action arising under or related to the Contract: i) to the extent permitted by the Constitution and the laws of the State, none of the parties shall be liable to the other for punitive, special, or consequential damages, even if it is advised of the possibility of such damages; and ii) Vendor's liability for damages of any kind to the Customer shall be limited to the total amount paid to Vendor under the Contract during the twelve months immediately preceding the accrual of the claim or cause of action. However, this limitation of Vendor's liability shall not apply to claims of bodily injury; violation of intellectual property rights including but not limited to patent, trademark, or copyright infringement; indemnification requirements under this Contract; and violation of State or Federal law including but not limited to disclosures of confidential information and any penalty of any kind lawfully assessed as a result of such violation.

L. Overcharges

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor hereby assigns to DIR any and all of its claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 U.S.C.A. Section 1, et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. and Comm. Code Section 15.01, et seq.

M. Prohibited Conduct

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor represents and warrants that, to the best of its knowledge as of the date of this certification, neither Vendor nor any subcontractor, firm, corporation, partnership, or institution represented by Vendor, nor anyone acting for such, subcontractor, firm, corporation or institution has: (1) violated the antitrust laws of the State of Texas under Texas Business & Commerce Code, Chapter 15, or the federal antitrust laws; or (2)

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communicated its response to the Request for Offer directly or indirectly to any competitor or any other person engaged in such line of business during the procurement for the Contract.

N. Required Insurance Coverage

As a condition of this Contract with DIR, Vendor shall provide the listed insurance coverage within 5 business days of execution of the Contract if the Vendor is awarded services which require that Vendor's employees perform work at any Customer premises and/or use employer vehicles to conduct work on behalf of Customers. In addition, when engaged by a Customer to provide services on Customer premises, the Vendor shall, at its own expense, secure and maintain the insurance coverage specified herein, and shall provide proof of such insurance coverage to the related Customer within five (5) business days following the execution of the Purchase Order. Vendor may not begin performance under the Contract and/or a Purchase Order until such proof of insurance coverage is provided to, and approved by, DIR and the Customer. All required insurance must be issued by companies that have an A rating and a Financial Size Category Class of VII from A.M. Best, and are licensed in the State of Texas and authorized to provide the corresponding coverage. The Customer and DIR will be named as Additional Insureds on all required coverage. Required coverage must remain in effect through the term of the Contract and each Purchase Order issued to Vendor there under. The minimum acceptable insurance provisions are as follows:

1) Commercial General Liability

Commercial General Liability must include \$1,000,000 per occurrence for Bodily Injury and Property Damage with a separate aggregate limit of \$2,000,000; Medical Expense per person of \$5,000; Personal Injury and Advertising Liability of \$1,000,000; Products/Completed Operations Aggregate Limit of \$2,000,000; and Damage to Premises Rented: \$50,000. Agencies may require additional Umbrella/Excess Liability insurance. The policy shall contain the following provisions:

- a) Blanket contractual liability coverage for liability assumed under the Contract;
- b) Independent Contractor coverage;
- c) State of Texas, DIR and Customer listed as an additional insured; and
- d) Waiver of Subrogation.

2) Workers' Compensation Insurance

WORKERS' COMPENSATION INSURANCE AND EMPLOYERS' LIABILITY COVERAGE MUST INCLUDE LIMITS CONSISTENT WITH STATUTORY BENEFITS OUTLINED IN THE TEXAS WORKERS' COMPENSATION ACT (ART. 8308-1.01 ET SEQ. TEX. REV. CIV. STAT) AND MINIMUM POLICY LIMITS FOR EMPLOYERS' LIABILITY OF \$1,000,000 PER ACCIDENT, \$1,000,000 DISEASE PER EMPLOYEE AND \$1,000,000 PER DISEASE POLICY LIMIT.

3) Business Automobile Liability Insurance

Business Automobile Liability Insurance must cover all owned, non-owned and hired vehicles with a minimum combined single limit of \$500,000 per occurrence for bodily injury and property damage. The policy shall contain the following endorsements in

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favor of DIR and/or Customer:

- a) Waiver of Subrogation; and
- b) Additional Insured.

O. Use of State Property

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor is prohibited from using the Customer's equipment, the customer's location, or any other resources of the Customer or the State for any purpose other than performing services under this Agreement. For this purpose, equipment includes, but is not limited to, copy machines, computers and telephones using State long distance services. Any charges incurred by Vendor using the Customer's equipment for any purpose other than performing services under this Agreement must be fully reimbursed by Vendor to the Customer immediately upon demand by the Customer. Such use shall constitute breach of contract and may result in termination of the contract and other remedies available to DIR and Customer under the contract and applicable law.

P. Immigration

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The Vendor shall comply with all requirements related to federal immigration laws and regulations, to include but not be limited to, the Immigration and Reform Act of 1986, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA") and the Immigration Act of 1990 (8 U.S.C.1101, et seq.) regarding employment verification and retention of verification forms for any individual(s) who will perform any labor or services under this Contract.

Pursuant to Executive Order No. RP-80, issued by the Governor of Texas on December 3, 2014, and as subsequently clarified, the Vendor shall, as a condition of this Contract, also comply with the United States Department of Homeland Security's E-Verify system to determine the eligibility of:

- all persons 1) to whom the E-Verify system applies, and 2) who are hired by the Vendor during the term of this Contract to perform duties within Texas; and
- all subcontractors' employees 1) to whom the E-Verify system applies, and 2) who are hired by the subcontractor during the term of this Contract and assigned by the subcontractor to perform work pursuant to this Contract.

The Vendor shall require its subcontractors to comply with the requirements of this Section and the Vendor is responsible for the compliance of its subcontractors. Nothing herein is intended to exclude compliance by Vendor and its subcontractors with all other relevant federal immigration statutes and regulations promulgated pursuant thereto.

Q. Public Disclosure

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

No public disclosures or news releases pertaining to this contract shall be made by Vendor without prior written approval of DIR.

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R. Product and/or Services Substitutions

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Substitutions are not permitted without the written permission of DIR or Customer.

S. Secure Erasure of Hard Disk Managed Services Products and/or Services

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor agrees that all managed service products and/or services equipped with hard disk drives (e.g., computers, telephones, printers, fax machines, scanners, multifunction devices) shall have the capability to securely erase data written to the hard drive prior to final disposition of such managed service products and/or services, either at the end of the managed service product and/or services' useful life or at the end of the Customer's managed service product and/or services' useful life or the end of the related Customer Managed Services Agreement for such products and/or services, in accordance with 1 TAC 202.

T. Deceptive Trade Practices; Unfair Business Practices

1) Vendor represents and warrants that neither Vendor nor any of its Subcontractors has been (i) found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations as defined under Chapter 17, Texas Business & Commerce Code, or (ii) has outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

2) Vendor certifies that it has no officers who have served as officers of other entities who (i) have been found liable in any administrative hearing, litigation or other proceeding of Deceptive Trade Practices violations or (ii) have outstanding allegations of any Deceptive Trade Practice pending in any administrative hearing, litigation or other proceeding.

U. Drug Free Workplace Policy

Vendor shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (41 U.S.C. §§8101-8106) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (Financial Assistance), issued by the Office of Management and Budget (2 C.F.R. Part 182) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and the contractor shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.

V. Accessibility of Public Information

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Pursuant to S.B. 1368 of the 83rd Texas Legislature, Regular Session, Vendor is required to make any information created or exchanged with the State pursuant to this Contract, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public at no additional charge to the State.

2) Each State government entity should supplement the provision set forth in Subsection 1, above, with the additional terms agreed upon by the parties regarding the

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specific format by which the Vendor is required to make the information accessible by the public.

W. Vendor Reporting Responsibilities

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

Vendor shall comply with Subtitle C, Title 5, Business & Commerce Code, Chapter 109 as added by HB 2539 of the 83rd Texas Legislature, Regular Session, requiring computer technicians to report images of child pornography.

10. Contract Enforcement

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED TO A, B2, 5-7.

A. Enforcement of Contract and Dispute Resolution

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Vendor and DIR agree to the following: (i) a party's failure to require strict performance of any provision of the Contract shall not waive or diminish that party's right thereafter to demand strict compliance with that or any other provision, (ii) for disputes not resolved in the normal course of business, the dispute resolution process provided for in Chapter 2260, Texas Government Code, shall be used, and (iii) actions or proceedings arising from the Contract shall be heard in a state court of competent jurisdiction in Travis County, Texas.

2) Disputes arising between a Customer and the Vendor shall be resolved in accordance with the dispute resolution process of the Customer that is not inconsistent with subparagraph A.1 above. DIR shall not be a party to any such dispute unless DIR, Customer, and Vendor agree in writing.

3) State agencies are required by rule (34 TAC §20.1115) to report vendor performance through the Vendor Performance Tracking System (VPTS) on every purchase over \$25,000.

B. Termination

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

1) Termination for Non-Appropriation

a) Termination for Non-Appropriation by Customer

Customer may terminate Purchase Orders if funds sufficient to pay its obligations under the Contract are not appropriated: i) by the governing body on behalf of local governments; ii) by the Texas legislature on behalf of state agencies; or iii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Vendor will be provided ten (10) calendar days written notice of intent to terminate. Notwithstanding the foregoing, if a Customer issues a Purchase Order and has accepted delivery of the services, they are obligated to pay for the services or they may discontinue using services under any return provisions that Vendor offers. In the event of such termination, the Customer will not be considered to be in default or breach under this Contract, nor shall it be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages

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or any other amounts which are caused by or associated with such termination.

b) Termination for Non-Appropriation by DIR

DIR may terminate Contract if funds sufficient to pay its obligations under the Contract are not appropriated: by the i) Texas legislature or ii) by budget execution authority provisioned to the Governor or the Legislative Budget Board as provided in Chapter 317, Texas Government Code. In the event of non-appropriation, Vendor will be provided thirty (30) calendar days written notice of intent to terminate. In the event of such termination, DIR will not be considered to be in default or breach under this Contract, nor shall it be liable for any further payments ordinarily due under this Contract, nor shall it be liable for any damages or any other amounts which are caused by or associated with such termination.

2) Absolute Right

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

DIR shall have the absolute right to terminate the Contract without recourse in the event that: i) Vendor becomes listed on the prohibited vendors list authorized by Executive Order #13224, *"Blocking Property and Prohibiting Transactions with Persons Who Commit, Threaten to Commit, or Support Terrorism"*, published by the United States Department of the Treasury, Office of Foreign Assets Control; ii) Vendor becomes suspended or debarred from doing business with the federal government as listed in the *System for Award Management (SAM)* maintained by the General Services Administration; or (iii) Vendor is found by DIR to be ineligible to hold this Contract under Subsection (b) of Section 2155.006, Texas Government Code. Vendor shall be provided written notice in accordance with Section 11.A, Notices, of intent to terminate.

3) Termination for Convenience

DIR may terminate the Contract, in whole or in part, by giving the other party thirty (30) calendar days' written notice. A Customer may terminate a Purchase Order or other contractual document or relationship by giving the other party thirty (30) calendar days' written notice.

4) Termination for Cause

a) Contract

Either DIR or Vendor may issue a written notice of default to the other upon the occurrence of a material breach of any covenant, warranty or provision of the Contract, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Contract. Customers purchasing services

Appendix A:

Standard Terms and Conditions for Services Contracts

under the Contract have no power to terminate the Contract for default.

b) Purchase Order

Customer or Order Fulfiller may terminate a Purchase Order or other contractual document or relationship upon the occurrence of a material breach of any term or condition: (i) of the Contract, or (ii) included in the Purchase Order or other contractual document or relationship in accordance with Section 3.B.2 above, upon the following preconditions: first, the parties must comply with the requirements of Chapter 2260, Texas Government Code, in an attempt to resolve a dispute; second, after complying with Chapter 2260, Texas Government Code, and the dispute remains unresolved, then the non-defaulting party shall give the defaulting party thirty (30) calendar days from receipt of notice to cure said default. If the defaulting party fails to cure said default within the timeframe allowed, the non-defaulting party may, at its option and in addition to any other remedies it may have available, cancel and terminate the Purchase Order. Customer may immediately suspend or terminate a Purchase Order without advance notice in the event Vendor fails to comply with confidentiality, privacy, security requirements, environmental or safety laws or regulations, if such non-compliance relates or may relate to vendor provision of goods or services to the Customer.

5) Immediate Termination or Suspension

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

DIR may immediately suspend or terminate this Contract without advance notice if DIR receives notice or knowledge of potentially criminal violations by Vendor (whether or not such potential violations directly impact the provision of goods or services under this Contract). In such case, the Vendor may be held ineligible to receive further business or payment but may be responsible for winding down or transition expenses incurred by Customer. DIR or Customer will use reasonable efforts to provide notice (to the extent allowed by law) to vendor within five (5) business days after imposing the suspension or termination. Vendor may provide a response and request an opportunity to present its position. DIR or Customer will review vendor presentation, but is under no obligation to provide formal response.

6) Customer Rights Under Termination

In the event the Contract expires or is terminated for any reason, a Customer shall retain its rights under the Contract and the Purchase Order issued prior to the termination or expiration of the Contract. The Purchase Order survives the expiration or termination of the Contract for its then effective term.

7) Vendor or Order Fulfiller Rights Under Termination

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

In the event a Purchase Order expires or is terminated, a Customer shall pay: 1) all amounts due for products or services ordered prior to the effective termination date and ultimately accepted, and 2) any applicable early termination fees agreed to in such Purchase Order.

Appendix A:
Standard Terms and Conditions for Services Contracts

C. Force Majeure

DIR, Customer, or Vendor may be excused from performance under the Contract for any period when performance is prevented as the result of an act of God, strike, war, civil disturbance, epidemic, or court order, provided that the party experiencing the event of Force Majeure has prudently and promptly acted to take any and all steps that are within the party's control to ensure performance and to shorten the duration of the event of Force Majeure. The party suffering an event of Force Majeure shall provide notice of the event to the other parties when commercially reasonable. Subject to this provision, such non-performance shall not be deemed a default or a ground for termination. However, a Customer may terminate a Purchase Order if it is determined by the Customer that Vendor will not be able to deliver services in a timely manner to meet the business needs of the Customer.

11. Notification

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

A. Notices

All notices, demands, designations, certificates, requests, offers, consents, approvals and other instruments given pursuant to the Contract shall be in writing and shall be validly given on: (i) the date of delivery if delivered by email, facsimile transmission, mailed by registered or certified mail, or hand delivered, or (ii) three business days after being mailed via United States Postal Service. All notices under the Contract shall be sent to a party at the respective address indicated in Section 6 of the Contract or to such other address as such party shall have notified the other party in writing.

B. Handling of Written Complaints

In addition to other remedies contained in the Contract, a person contracting with DIR may direct their written complaints to the following office:

Public Information Office
Department of Information Resources
Attn: Public Information Officer
300 W. 15th Street, Suite 1300
Austin, Texas 78701
(512) 475-4759, facsimile

12. Captions

Note: NO EXCEPTIONS OR REVISIONS WILL BE CONSIDERED

The captions contained in the Contract, Appendices, and its Exhibits are intended for convenience and reference purposes only and shall in no way be deemed to define or limit any provision thereof.



HUB Subcontracting Plan (HSP)

QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

➤ If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
- ☐ Section 2 c. - Yes
- ☐ Section 4 - Affirmation
- ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- ☐ Section 2 c. - No
- ☐ Section 2 d. - Yes
- ☐ Section 4 - Affirmation
- ☐ GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - Yes, I will be subcontracting portions of the contract.
- ☐ Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
- ☐ Section 2 c. - No
- ☐ Section 2 d. - No
- ☐ Section 4 - Affirmation
- ☐ GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.

➤ If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment, including transportation and delivery, complete:

- ☐ Section 1 - Respondent and Requisition Information
- ☐ Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
- ☐ Section 3 - Self Performing Justification
- ☐ Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include transportation and delivery under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.13 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

In accordance with 34 TAC §20.14(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent does not have a continuous contract in place for more than five (5) years shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION-1 RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: Gartner Inc. State of Texas VID #: 1043099750100
 Point of Contact: Phillip A. Cummings Phone #: +1 703 387 5619
 E-mail Address: phillip.cummings@gartner.com Fax #: +1 800 446 3597
- b. Is your company a State of Texas certified HUB? ☐ - Yes ☒ - No
- c. Requisition #: _____ Bid Open Date: 29 MAR 2018

(mm/dd/yyyy)

Enter your company's name here: Gartner Inc.

Requisition #: _____

SECTION-2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods, services, transportation and delivery will be subcontracted**. Note: In accordance with 34 TAC §20.11., a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- ☐ - **Yes**, I will be subcontracting portions of the contract. (If **Yes**, complete Item b of this SECTION and continue to Item c of this SECTION.)
- ☐ - **No**, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods, services, transportation and delivery. (If **No**, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <http://window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan/>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, meets or exceeds the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- ☐ - **Yes** (If **Yes**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- ☐ - **No** (If **No**, continue to SECTION 4 **and** complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include transportation and delivery under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: Gartner Inc.

Requisition #: _____

SECTION-2 RESPONDENT's SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you <u>do not</u> have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to HUBs with which you have a <u>continuous contract*</u> in place for <u>more than five (5) years</u> .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include transportation and delivery under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: Gartner Inc.

Requisition #: _____

SECTION-3 SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.)

If you responded "No" to SECTION 2, Item a, in the space provided below explain how your company will perform the entire contract with its own employees, supplies, materials and/or equipment, to include transportation and delivery.

Gartner Research is written solely by 950 analysts employed by Gartner to ensure that Gartner maintains our independent, objective and nonbiased research. Gartner has over 8,500 employees, including over 1400 analysts and consultants. Since our research model and methodologies are extremely unique and proprietary it is not possible to subcontract out any of the work associated with these services.

We have a sales team dedicated to supporting TX DIR. We understand the needs and processes of TX DIR, and we know how to provide tremendous value to TX DIR customers from our experience with multiple DIR contracts.

SECTION-4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature on File

Phillip A. CummingsContracts Counsel03/29/2018

Signature

Printed Name

Title

Date
(mm/dd/yyyy)**Reminder:**

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

Rev. 09/15

Enter your company's name here: Gartner Inc.

Requisition #: _____

IMPORTANT: If you responded "**No**" to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <http://window.state.tx.us/procurement/prog/hub/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B 2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

☐ - Yes (If **Yes**, to continue to SECTION B-4.)

☐ - No / Not Applicable (If **No** or **Not Applicable**, continue to SECTION B-3 and SECTION B-4.)

SECTION B 3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <http://www.window.state.tx.us/procurement/prog/hub/hub-subcontracting-plan>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.

- a. Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs **at least seven (7) working days** to respond to the notice prior to your submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscblsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.
- b. List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company's Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID (Do not enter Social Security Numbers.)	Date Notice Sent (mm/dd/yyyy)	Did the HUB Respond?
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No
			<input type="checkbox"/> - Yes <input type="checkbox"/> - No

- c. Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in **Texas** to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers **at least seven (7) working days** prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program's webpage at <http://www.window.state.tx.us/procurement/prog/hub/mwb-links-1/>.

- d. List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent (mm/dd/yyyy)	Was the Notice Accepted?
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No
		<input type="checkbox"/> - Yes <input type="checkbox"/> - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: Gartner Inc.

Requisition #: _____

SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%
	<input type="checkbox"/> - Yes <input type="checkbox"/> - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is not a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.14 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

SECTION: A PRIME CONTRACTOR'S INFORMATION

Company Name:	Gartner Inc.	State of Texas VID #:	1043099750100
Point-of-Contact:	Phillip A. Cummings	Phone #:	+1 703 387 5619
E-mail Address:	phillip.cummings@gartner.com	Fax #:	+1 800 446 3597

SECTION: B CONTRACTING STATE AGENCY AND REQUISITION INFORMATION

Agency Name:			
Point-of-Contact:		Phone #:	
Requisition #:		Bid Open Date:	29 MAR 2018 (mm/dd/yyyy)

SECTION: C SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE, DESCRIPTION, REQUIREMENTS AND RELATED INFORMATION

1. Potential Subcontractor's Bid Response Due Date:

If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2,

we must receive your bid response no later than _____ on _____ .
Central Time Date (mm/dd/yyyy)

In accordance with 34 TAC §20.14, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.11(19)(C).

(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)

2. Subcontracting Opportunity Scope of Work:

3. Required Qualifications:

☐ - Not Applicable

4. Bonding/Insurance Requirements:

☐ - Not Applicable

5. Location to review plans/specifications:

☐ - Not Applicable

Attachment 2.1 - DIR Customer Price

DIR CUSTOMER PRICE

Prices for each annual term applies to orders received during the effective dates specified for each annual term unless indicated otherwise on the schedule. Delivery start date of service(s) order shall be no later than the first of the month following the expiration of the pricing. To be eligibility for these rates, purchasing entity must be a State of Texas government entity, public sector entity, or a nonprofit wholly owned and operated by government.

The Customer Price herein are maximum not to exceed rates. The actual price an eligible client will pay for the renewal of any existing Service or the issuance of a new order will be consistent with the then current Gartner Public Sector pricing plus any applicable administrative fee(s) or the rates herein, whichever is less, for the Service(s) ordered. Please check with account representative for actual pricing before purchasing.

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
SECTION 1.0.1 - Team Plus Solution Research Services			
Global CIO Team Plus ¹ - Invitation Only			
Global CIO	190,107	201,514	213,605
Divisional CIO	142,047	150,570	159,605
Global IT Leader	142,047	150,570	159,605
Global IT Leadership Team Plus ¹ - Invitation Only			
Global Team Leader	129,871	137,664	145,924
Global Partner Member	115,668	127,235	139,959 *
Advisor Member	45,071	47,776	50,643
Executive Programs Leadership Team Plus for Global Enterprises ¹			
Global Enterprises Team Leader	137,733	151,507	166,658 *
Global Enterprises IT Executive (may purchase IT Leadership Team Plus Members)	137,733	151,507	166,658 *
Global Enterprises Partner (may purchase Enterprise IT Leadership Team Plus Members)	118,993	130,893	143,983 *
Advisor Leader (may purchase IT Leadership Team Plus Members)	37,381	41,120	45,232 *
Cross Function Member	26,902	29,593	32,553 *
Executive Programs Leadership Team Plus ¹			
Leader	100,327	106,348	112,736
IT Executive Member or IT Executive Leader (IT Executive Leader must purchase IT Leadership Team Plus Members)	100,327	106,348	112,736 *
Partner Member or Partner Leader (Partner Leader must purchase Enterprise IT Leadership Team Plus Members)	87,255	95,981	105,580 *
Partner Member or Partner Leader - Renewing Subscriber ⁷ (Partner Leader must purchase Enterprise IT Leadership Team)	82,684	87,647	92,914
Delegate Member or Delegate Leader - Renewal Only ⁷ (Delegate Leader must purchase IT Leadership Team Members)	52,607	55,769	59,116
Advisor Member or Advisor Leader (Advisor Leader must purchase IT Leadership Team Members)	39,339	41,706	44,210
Cross Function Member	28,350	30,052	31,860

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
Enterprise IT Leaders Initiative Team ¹ - Limited Availability ³			
Leader	89,286	94,644	100,323
Advisor Member	46,673	49,474	52,443
Enterprise IT Leadership Team Plus for Global Enterprise ¹			
Global Enterprises Leader	98,237	108,061	118,868 *
Global Enterprises Advisor Leader (may purchase Enterprise IT Leadership Team Plus Members)	34,056	37,462	41,209 *
Advisor Member	34,056	37,462	41,209 *
Cross Function Member	20,655	22,721	24,994 *
Enterprise IT Leadership Team Plus ¹			
Leader	73,653	81,019	89,121 *
Leader - Renewing Subscriber ⁷	69,928	74,126	78,581
Advisor Member	35,913	38,074	40,360
Cross Function Member	21,770	23,077	24,465
IT Leadership Team Plus ¹			
Leader	35,913	38,074	40,360
Advisor Member	35,913	38,074	40,360
Cross Function Member	21,770	23,077	24,465
SECTION 1.0.2 - Team Plus Solution with Industry Research Services			
Global CIO Team Plus with Industry (one industry) ² - Invitation Only			
Global CIO	198,117	210,005	222,606
Divisional CIO	155,076	164,381	174,244
Global IT Leader	155,076	164,381	174,244
Global IT Leadership Team Plus with Industry (one industry) ² - Invitation Only			
Global Team Leader	142,901	151,476	160,565
Global Partner Member	127,154	139,870	153,857 *
Advisor Member	49,664	52,644	55,803
Executive Programs Leadership Team Plus with Industry for Global Enterprises ² (one industry)			
Global Enterprises Team Leader	151,537	166,691	183,361 *
Global Enterprises IT Executive (may purchase Industry Advisory Services Leadership Team Plus Members)	151,537	166,691	183,361 *
Global Enterprises Partner (may purchase Enterprise IT Leadership Team Plus with Industry Members)	130,983	144,082	158,491 *

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
Advisor Leader (may purchase Industry Advisory Services Leadership Team Plus Members)	44,938	49,432	54,376 *
Cross Function Member	30,026	33,029	36,332 *
Executive Programs Leadership Team Plus with Industry ² (one industry)			
Leader	109,035	115,582	122,525
IT Executive Member or IT Executive Leader (IT Executive Leader must purchase Industry Advisory Services Leadership Team Plus Members)	109,035	115,582	122,525 *
Partner Member or Partner Leader (Partner Leader must purchase Enterprise IT Leadership Team Plus with Industry Members)	96,726	106,399	117,039 *
Partner Member or Partner Leader - Renewing Subscriber ⁷ (Partner Leader must purchase Enterprise IT Leadership Team Plus with Industry Members)	91,650	97,149	102,986
Delegate Member or Delegate Leader - Renewal Only ⁷ (Delegate Leader must purchase Industry Advisory Services Leadership Team Plus Members)	59,816	63,411	67,217
Advisor Member or Advisor Leader (Advisor Leader must purchase Industry Advisory Services Leadership Team Plus Members)	47,223	50,062	53,072
Cross Function Member	31,618	33,516	35,530
Enterprise IT Leaders Initiative Team with Industry ² (one industry) - Limited Availability ³			
Leader	99,860	105,852	112,204
Advisor Member	55,644	58,983	62,522
Enterprise IT Leadership Team Plus with Industry for Global Enterprises ² (one industry)			
Global Enterprises Advisor Leader (may purchase Enterprise IT Leadership Team Plus with Industry Team Members)	40,706	44,777	49,255 *
Advisor Member	40,706	44,777	49,255 *
Cross Function Member	24,887	27,376	30,114 *
Enterprise IT Leadership Team Plus with Industry ² (one industry)			
Leader	82,519	90,771	99,849 *
Leader - Renewing Subscriber ⁷	78,200	82,892	87,872
Advisor Member	42,850	45,427	48,159
Cross Function Member	26,189	27,762	29,430
Industry Advisory Services Leadership Team Plus ² (one industry)			
Leader	42,850	45,427	48,159
Advisor Member	42,850	45,427	48,159
Cross Function Member	26,189	27,762	29,430

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
SECTION 1.1.1 - Team Solution Research Services			
Executive Programs Leadership Team ¹			
Leader	88,458	93,769	99,398
IT Executive Member or IT Executive Leader (IT Executive Leader must purchase IT Leadership Team Members)	88,458	93,769	99,398*
Partner Member or Partner Leader (Partner Leader must purchase Enterprise IT Leadership Team Members)	80,000	88,000	96,800*
Partner Member or Partner Leader - Renewing Subscriber ⁷ (Partner Leader must purchase Enterprise IT Leadership Team with Industry Members)	69,129	73,283	77,681
Delegate Member or Delegate Leader - Renewal Only ⁷ (Delegate Leader must purchase Industry Advisory Services Leadership Team Members)	46,818	49,630	52,609
Advisor Member or Advisor Leader (Advisor Leader must purchase Industry Advisory Services Leadership Team Members)	34,437	36,510	38,706
Cross Function Member	23,996	25,439	26,965
Role Member	16,746	17,752	18,817
Executive Programs Leadership Team Essentials ¹			
Leader	88,458	93,769	99,398
Essentials Member - Limited Availability ³	9,322	9,883	10,476
Enterprise IT Leadership Team ¹			
Leader	67,809	74,590	82,049*
Leader - Renewing Subscriber ⁷	61,909	65,629	69,568
Advisor Member	31,343	33,230	35,229
Cross Function Member	18,472	19,582	20,757
Role Member	11,567	12,262	12,998
Essentials Member - Limited Availability ³	9,322	9,883	10,476
IT Leadership Team ¹			
Leader	31,343	33,230	35,229
Advisor Member	31,343	33,230	35,229
Cross Function Member	18,472	19,582	20,757
Role Member	11,567	12,262	12,998
Essentials Member	9,322	9,883	10,476

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
SECTION 1.1.2 - Team Solution with Industry Research Services			
Executive Programs Leadership Team with Industry ² (one industry)			
Leader	100,121	106,133	112,506
IT Executive Member or IT Executive Leader (IT Executive Leader must purchase Industry Advisory Services Leadership Team Members)	100,121	106,133	112,506*
Partner Member or Partner Leader (Partner Leader must purchase Enterprise IT Leadership Team with Industry Members)	88,565	97,422	107,165*
Partner Member or Partner Leader - Renewing Subscriber ⁷ (Partner Leader must purchase Enterprise IT Leadership Team with Industry Members)	84,087	89,135	94,484
Delegate Member or Delegate Leader - Renewing Only ⁷ (Delegate Leader must purchase Industry Advisory Services Leadership Team Members)	54,844	58,137	61,627
Advisor Member or Advisor Leader (Advisor Leader must purchase Industry Advisory Services Leadership Team Members)	43,412	46,019	48,781
Cross Function Member	28,989	30,732	32,582
Role Member	20,505	21,738	23,047
Executive Programs Leadership Team with Industry ² (one industry)			
Leader	100,121	106,133	112,506
Essentials Member - Limited Availability ³	9,625	10,204	10,818
Enterprise IT Leadership Team with Industry ² (one industry)			
Leader	75,567	83,124	91,437*
Leader - Renewing Subscriber ⁷	71,747	76,054	80,618
Advisor Member	39,297	41,656	44,156
Cross Function Member	24,005	25,448	26,980
Role Member	13,848	14,680	15,564
Essentials Member	9,625	10,204	10,818
Industry Advisory Services Leadership Team ² (one industry)			
Leader	39,297	41,656	44,156
Advisor Member	39,297	41,656	44,156
Cross Function Member	24,005	25,448	26,980
Role Member	13,848	14,680	15,564
Essentials Member	9,625	10,204	10,818

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
SECTION 1.2 - Individual Solution Research Services			
Research Board for Global Executives - <i>Invitation Only</i>			
Global CIO	190,107	201,514	213,605
Executive Programs Individual Solutions			
Member (Single User)	97,687	103,552	109,769
Member (Multi User)	86,695	91,900	97,417
Two Additional Meetings Add-on - <i>Limited Availability</i> ³	16,749	18,424	20,267
Executive Programs Individual Solutions with Industry (one industry)			
Member (Single User)	109,172	115,727	122,677
Member (Multi User)	98,109	104,001	110,246
IT Leaders			
Individual Access Advisor (Single User)	41,487	43,984	46,630
Individual Access Advisor (Multi User)	31,343	33,230	35,229
Reference (Single User)	27,898	29,575	31,349
Reference (Multi User)	17,712	18,777	19,904
Industry Advisory Services (one industry)			
Individual Access Advisor (Single User)	50,742	53,788	57,016
Individual Access Advisor (Multi User)	39,297	41,656	44,156
Reference (Single User)	34,201	36,257	38,440
Reference (Multi User)	23,359	24,763	26,254
Core Connect			
Individual Access Advisor (Single User)	38,037	40,320	42,740
Individual Access Advisor (Multi User)	27,789	29,457	31,225
Reference (Single User)	24,419	25,891	27,451
Reference (Multi User)	14,126	14,978	15,880
IT News and Insight			
IT News and Insights - per seat	705	756	806
SECTION 1.3 - Multi-user Research Services			
Technical Professionals ⁴			
Advisor Department	121,353	128,637	136,363
Reference Department	81,740	86,647	91,846
Advisor Team	60,361	63,986	67,828
Technical Professionals Small & Midsize Business (SMB) ^{4, 5}			
Advisor SMB	64,214	68,071	72,158
Reference SMB	42,722	45,291	48,013

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
IT Associates ⁴			
100 Research Notes	26,174	27,749	29,421
SECTION 1.4 - Other Services			
Strategic Advisory Services			
Internal Session (Clients only)	17,218	18,256	19,354
Remote Session (Clients only)	8,503	9,017	9,561
Conferences - North America ⁶ - Ticket pricing expires December 31 of the year indicated			
IT Symposium/Xpo Ticket	TBD	TBD	TBD
Summit Ticket (BI, Data Center, Security, or Apps)	TBD	TBD	TBD
Summit Ticket (excludes BI, Data Center, Security, and Apps)	TBD	TBD	TBD
SECTION 1.5 - Gartner Business Services			
Customer Service & Support Leaders Team ⁹			
Leader	32,255	34,191	36,243
Advisor Member	32,255	34,191	36,243
Reference Member	14,420	15,286	16,204
Customer Service & Support Leaders			
Individual Access Advisor (Single User)	43,256	45,852	48,604
Individual Access Advisor (Multi User)	31,537	34,691	38,161 *
Finance Leaders Team ⁹			
Leader	33,103	35,095	37,207
Advisor Member	33,103	35,095	37,207
Reference Member	14,849	15,746	16,692
Finance Leaders			
Individual Access Advisor (Single User)	44,389	47,061	49,892
Individual Access Advisor (Multi User)	31,537	34,691	38,161 *
Chief Human Resources Officers Team ⁹			
Leader	86,751	95,427	104,970 *
Advisor Member	32,255	34,191	36,243
Reference Member	17,837	18,908	20,043
Chief Human Resources Officers			
Individual Access Advisor (Single User)	95,618	105,180	115,698
Individual Access Advisor (Multi User)	86,751	95,427	104,970 *

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
Human Resources Leaders Team ⁹			
Leader	33,103	35,095	37,207
Advisor Member	33,103	35,095	37,207
Reference Member	18,343	19,451	20,618
Human Resources Leaders			
Individual Access Advisor (Single User)	44,389	47,061	49,892
Individual Access Advisor (Multi User)	31,537	34,691	38,161 *
Human Resources Professionals ⁹			
Up to 20 HR Professionals	39,517	41,889	44,403
Up to 5 HR Professionals	24,565	26,039	27,602
TalentNeuron™			
Single Country	30,731	33,805	37,186 *
Single Country Reference	23,477	25,825	28,408 *
Additional 5 Users	4,435	4,880	5,370 *
Additional Workbench	10,479	11,527	12,680 *
Legal and Compliance Leaders Team ⁹			
Leader	28,647	30,366	32,190
Advisor Member	28,647	30,366	32,190
Reference Member	11,445	12,137	12,868
Legal and Compliance Leaders			
Individual Access Advisor (Single User)	37,951	40,229	42,645
Individual Access Advisor (Multi User)	27,205	29,926	32,919 *
Marketing Leaders Team Plus ¹⁰			
Leader	104,383	114,822	126,305 *
Advisor Member	39,799	43,779	48,157 *
Reference Member	15,618	17,180	18,898 *
Marketing Leaders Team ⁹			
Leader	41,900	44,415	47,085
Advisor	41,900	44,415	47,085
Reference	15,618	17,180	18,898

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
Marketing Leaders			
Individual Access Advisor (Single User)	50,300	53,320	56,526
Individual Access Advisor (Multi User)	41,900	44,415	47,085
Enterprise Supply Chain Leadership Team ² - Limited Availability ³			
Leader	61,909	65,629	69,568
Advisor	31,343	33,230	35,229
Cross Function	18,472	19,582	20,757
Essentials	9,322	9,883	10,476
Enterprise Supply Chain Leaders - Limited Availability ³			
Individual Access (Single User)	74,440	78,913	83,649
Individual Access (Multi User)	61,909	65,629	69,568
Two Onsite Meetings Add-on - Limited Availability ³	16,749	18,424	20,267
Supply Chain Leadership Team ² - Limited Availability ³			
Leader	31,343	33,230	35,229
Advisor	31,343	33,230	35,229
Cross Function	18,472	19,582	20,757
Essentials	9,322	9,883	10,476
Supply Chain Leaders - Limited Availability ³			
Individual Access (Single User)	41,487	43,984	46,630
Individual Access (Multi User)	31,343	33,230	35,229
Reference (Single User)	27,898	29,575	31,349
Reference (Multi User)	17,712	18,777	19,904
SECTION 2 - Renewal Only Services ⁷			
Executive Programs Individual Solutions - Renewal Only Services ⁷			
Member Basic (Single User)	66,511	70,508	74,741
Member Basic (Multi User)	59,577	63,157	66,949
Executive Programs Individual Solutions with Industry (one industry) - Renewal Only Services ⁷			
Member Basic (Single User)	77,112	81,743	86,650
Member Basic (Multi User)	70,030	74,236	78,692
IT Executives Portfolio - Renewal Only Services ⁷			
IT Executives CIO Signature	110,262	116,880	123,899
IT Executives CIO (Single User)	99,717	105,708	112,051
IT Executives CIO (Multi User)	88,484	93,801	99,429
IT Executives CIO Essentials (Single User)	66,511	70,508	74,741
IT Executives CIO Essentials (Multi User)	59,577	63,157	66,949

Attachment 2.1 - DIR Customer Price

Subscription Services	Annual Extensions		
	Feb 1, 2020 to Jan 31, 2021	Feb 1, 2021 to Jan 31, 2022	Feb 1, 2022 to Jan 31, 2023
Enterprise IT Leaders - Renewal Only Services ⁷			
Individual Access (Single User)	80,807	88,888	97,777 *
Individual Access (Multi User)	67,809	74,590	82,049 *
Individual Access (Single User) - For renewing subscribers who purchased the services before February 1, 2020.	74,440	78,913	83,649
Individual Access (Multi User) - For renewing subscribers who purchased the services before February 1, 2020.	61,909	65,629	69,568
Two Onsite Meetings Add-on - Limited Availability ³	16,749	18,424	20,267
Industry Advisory Services Add-on to Enterprise IT Leaders	11,565	12,262	13,006
SECTION 3 - Research Services for Public & Non-Profit Higher Education University or College ONLY ⁸			
Core IT Research for Higher Education (per student campus)			
Core IT Research for Higher Education Campus Reference for a community college	27,809	30,590	33,649
Core IT Research for Higher Education Campus Reference for a college or university with 1 to 4,999 Student FTE	27,809	30,590	33,649
Core IT Research for Higher Education Campus Reference for a college or university with 5,000 to 9,999 Student FTE	55,618	61,180	67,298
Core IT Research for Higher Education Campus Reference for a college or university with 10,000 to 24,999 Student FTE	83,426	91,769	100,946
Core IT Research for Higher Education Campus Reference for a college or university with 25,000+ Student FTE	111,235	122,359	134,595
Technical Professional for Higher Education ⁴ (per student campus)			
Technical Professional Advisor for IT Staff only of a college or university	64,198	68,057	72,147
Technical Professional Reference for IT Staff only of a college or university	42,688	45,257	47,977

“Single User” applies to a buying center that has one individual license; “Multi User” applies to a buying center that has at least two qualifying licenses within the same agency or municipality. To qualify for Multi User price levels, services must be ordered on the same Service Agreement or Purchase Order and reflect a common “Bill To” address. Strategic Advisory Services, Conferences, and Add-on services do not contribute towards Multi User pricing qualification.

¹ **Team** licenses require the purchase of a team configuration and are not available for purchase as standalone licenses. Certain team solutions are invitation only services as indicated in the pricing table. A maximum of one Leader per team. Each Leader type license must have three (3) to ten (10) team member licenses. A minimum of three (3) Advisor and/or Cross Function team member licenses required per Team with an Enterprise IT Leadership Leader or Partner license. Executive Programs Leadership team solutions with one Leader and less than three (3) team member licenses is permissible so long as one of the team member licenses is an IT Executive or a Partner Leader with at least three (3) Advisor and/or Cross Function team member licenses. Global CIO team solutions with one Leader and less than three (3) team member licenses is permissible. All licenses in a Team must be coterminous and of the same team type. For example, a Team Plus configuration may only contain Team Plus licenses and cannot include other types of team licenses such as Team Plus with Industry, Team (non-Plus), Global CIO Team etc.

Attachment 2.1 - DIR Customer Price

² **Team with Industry** licenses require the purchase of a team configuration and are not available for purchase as standalone licenses. Certain team solutions are invitation only services as indicated in the pricing table. A maximum of one Leader per team. Each Leader type license must have three (3) to ten (10) team member licenses. A minimum of three (3) Advisor and/or Cross Function team member licenses required per Team with an Enterprise IT Leadership Leader or Partner license. Executive Programs Leadership team solutions with one Leader and less than three (3) team member licenses is permissible so long as one of the team member licenses is an IT Executive or a Partner Leader with at least three (3) Advisor and/or Cross Function team member licenses. Global CIO team solutions with one Leader and less than three (3) team member licenses is permissible. All licenses in a Team must be coterminous and of the same team type. For example, a Team Plus with Industry configuration may only contain Team Plus with Industry licenses for the same industry and cannot include other types of team licenses such as Team with Industry (non-Plus), Team Plus, Team (no industry, non-Plus), Global CIO Team etc. Team solutions with Industry Advisory Services is for one industry and all licenses in the team must purchase access to the same industry.

³ Availability is limited. Please check with your Gartner Sales representative before ordering.

⁴ Purchasing prerequisite and/or eligibility requirements apply. Check with Sales representatives before purchasing.

⁵ Technical Professionals SMB is a per agency license available only to eligible small and medium size agencies with 4,000 or fewer employees. Please check with Sales representatives before purchasing.

⁶ Conferences ticket prices apply to orders received by December 31st of the year indicated. For example, 2020 Symposium ticket price applies to orders received on or before December 31, 2020. Future ticket prices have not been released; please check with account representatives for future pricing at the time of purchase.

⁷ Renewal Only and Renewing Subscriber services and pricing are available to eligible license holders who purchased the service listed on or before the date specified below and continuously purchase the service thereafter. Please check with Sales Representative for availability and eligibility before ordering.

Team Partner Member and Partner Leader licenses: purchased on or before February 1, 2020

Team Delegate Member and Delegate Leader licenses: purchased on or before February 1, 2020

Enterprise IT Leadership Team Leader: purchased on or before February 1, 2020

Enterprise IT Leaders Individual Access licenses: purchased on or before February 1, 2020

Executive Programs Member Basic and Member Basic with Industry: purchased on or before April 1, 2019

IT Executives: purchased on or before September 1, 2015

⁸ Higher Education products are only available to eligible public and not-for-profit Higher Education colleges or universities. A Core IT Research Reference for Higher Education license is for one designated, student campus based on the total full-time equivalent (FTE) student enrollment of the college or university, as assessed at the time of purchase. Purchasing prerequisites apply. Check with Sales representatives before purchasing.

⁹ Gartner Business Services Team licenses require the purchase of a team configuration and are not available for purchase as standalone licenses. A maximum of one Team Leader per Team. Each Team Leader type license must have three (3) to ten (10) Team Members coterminous with the Leader license. A Customer Service & Support Team or Legal & Compliance Leaders Team with one Team Leader and two Team Members is permissible. All licenses in a Team must be of the same business domain; for example, a Finance Leaders Team may only consist of Finance Leaders Team licenses. Human Resources Professionals requires the purchase and maintenance of a coterminous Chief Human Resources Officers Team or Human Resources Team.

¹⁰ Marketing Team Plus licenses require the purchase of a team configuration and are not available for purchase as standalone licenses. A maximum of one Leader per Team. Each Leader license must have three (3) to six (6) coterminous Team Plus Member licenses. All licenses in a Team Plus solution, including subteam members, must be "Team Plus" type licenses.

Gartner reserves the right to refresh its pricing on an annual basis consistent with the then current Gartner Public Sector pricing.

APPENDIX D to DIR Contract No. DIR-TSO-4099

Gartner, Inc. Services Agreement for [HARRIS COUNTY] ("Customer")

This Service Agreement ("SA") and DIR Contract No. DIR-TSO-4099 constitutes the complete agreement between **Gartner, Inc.** of 56 Top Gallant Road, Stamford, CT 06904 ("**Gartner**") and Customer for the Services (as defined below). The SA is based upon and governed by the Contract for Services with the State of Texas Department of Information Services ("DIR") Contract No. DIR-TSO-4099, between Gartner and DIR, the terms of which are incorporated by reference for use by the Customer. The General Terms contained herein and all applicable Vendor Services Descriptions shall apply to this SA and shall be effective when signed by both parties. Customer agrees to subscribe to the following Services for the term and fees set forth below. All fees shall be as set forth in Appendix C of DIR Contract No. DIR-TSO-4099.

1. DEFINITIONS AND ORDER SCHEDULE

a. Services are the subscription-based research and related services purchased by Customer in the Order Schedule below and described in the Service Descriptions.

b. Service Descriptions, the terms of which are incorporated by reference, are attached to this SA and describe each Service purchased, specify the deliverables for each Service, and set forth any additional terms unique to a specific Service.

Service Names and Levels of Access are defined in the Service Descriptions. Gartner may periodically update the names and the deliverables for each Service. If Customer adds Services or upgrades the level of service or access, an additional Service Agreement will be required.

Summary of Services for HARRIS COUNTY

<u>Service Name</u>	<u>Level of Access</u>	<u>Quantity</u>	<u>Name of User to be Licensed</u>	<u>Contract Term Start Date</u>	<u>Contract Term End Date</u>	<u>Annual Fee USD</u>	<u>Total Fee USD</u>
Gartner for IT Executives	CIO Signature Member and Delegate	1	Rick Noriega, John Dyess	01-JAN-2021	31-DEC-2021		
Gartner for Enterprise IT Leaders	Individual Access Member: Applications	1	Shing Lin	01-JAN-2021	31-DEC-2021		
Executive Programs Leadership Team	Leader	1	James Henderson	01-JAN-2021	31-DEC-2021		
Executive Programs Leadership Team	Cross Function Member	3	Jay Guthrie, Chelsa Russell, Lee Morgan	01-JAN-2021	31-DEC-2021		
Gartner for Technical Professionals	Advisor Department	1	TBD	01-JAN-2021	31-DEC-2021		
				Term Total	(Excluding applicable taxes)		\$432,943.00
				Total Services:	(Excluding applicable taxes)		\$432,943.00

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<u>Service Name/ Level of Access</u>	<u>Service Description URL</u>
Executive Programs Leadership Team Leader	http://sd.gartner.com/sd_ep_team_leader.pdf
Executive Programs Leadership Team Cross Function Member	http://sd.gartner.com/sd_ep_team_cf.pdf
Gartner for Enterprise IT Leaders Individual Access Member: Applications	http://sd.gartner.com/sd_eitl_indiv.pdf
Gartner for IT Executives CIO Signature Member and Delegate	http://sd.gartner.com/sd_ite_cio_sig.pdf
Gartner for Technical Professionals Advisor Department	http://sd.gartner.com/sd_techpro_advisor_dept.pdf

2. PAYMENT TERMS

Gartner will invoice Customer in advance for all Services. Payment shall be in accordance with Section 7 of Appendix A of the DIR Contract DIR-TSO-4099.

Please attach any required Purchase Order ("PO") to this SA and enter the PO number below. If an annual PO is required for multi-year contracts, Customer will issue the new PO at least 30 days prior to the beginning of each subsequent contract year. Any pre-printed or additional contract terms included on the PO shall be inapplicable and of no force or effect.

3. CUSTOMER BILLING INFORMATION

Purchase Order Number

Billing Address

Invoice Recipient Name

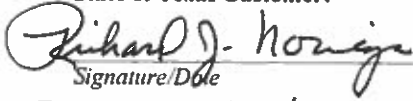
Invoice Recipient Email

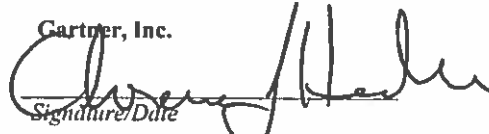
Invoice Recipient Tel. No.

4. AUTHORIZATION

State of Texas Customer:

Gartner, Inc.


Signature/Date


Signature/Date

28 Dec 20

RICHARD J. NORIEGA

Print Name and Title

ED / CIO

Clarence J. Henderson

Print Name and Title

Deputy Director

General Terms and Guidelines for Vendor's Services

1. This SA for subscription-based research and related services (the "**Services**") is subject to Section 8.B. of Appendix A of the DIR Contract No. DIR-TSO-4099.
2. **Services** are the subscription-based research and related services described herein. Service Descriptions, Names and Levels of Access are as detailed for each product offering. Vendor may periodically update the names and the deliverables for each Service.
3. **Modification of Services by Vendor.** In order to remain current and timely in its Service offerings, Vendor may make minor modifications from time to time in the content of any Service. If Vendor discontinues any Service in its entirety, Customer may, at its option, receive a substitute Service, or obtain a pro rata refund of the fees paid for the discontinued Service.
4. **Licensed User** is the individual named in the Customer Purchase Order who is licensed to use the Services. Customer will limit access to the Services to the agreed upon number of Licensed Users.
5. **Ownership and Use of the Services.** Vendor owns and retains all rights to the Services not expressly granted to Customer. Only the individuals named in the Customer Purchase Order (each a "**Licensed User**") may access the Services. Each Licensed User will be issued a unique password, which may not be shared. Customer agrees to review and comply with the **Usage Guidelines for Gartner Services ("Guidelines")**, which are accessible to all Licensed Users via the "Policies" section of www.gartner.com. Among other things, these Guidelines describe how Customer may substitute Licensed Users, excerpt from and/or share Vendor research documents within the Customer organization, and quote or excerpt from the Services externally. Customer may not redistribute copies of individual research documents, by electronic means or otherwise, to non-Users without Vendor's prior written permission. Licensed Users may not reproduce or distribute the Services externally without Vendor's prior written permission, except for external distribution, in their entirety only, of reprints of individual documents purchased by Customer.

Customer may excerpt from the Services for external use only if Customer obtains the prior written approval of Gartner Quote Requests, at quote.requests@gartner.com. Any approved external use of the Services must comply with Vendor's **Copyright and Quote Policy** which may be viewed on the Gartner Vendor Relations section of www.gartner.com. Services may not be stored by Customer on any information storage and retrieval system.

6. **Access to the Services.** ID's for access to Vendor Core Research and Analyst Inquiry may not be shared. Access to the Services is restricted to the number of named individuals (each a "Licensed User") as identified in the Customer Purchase Order.
7. **Monitoring of Usage.** Customer acknowledges and agrees to inform all Licensed Users that Vendor may monitor activity on Vendor's web site, including access to, and use of, the Services by individuals. Upon request, Customer agrees to provide Vendor with assurance from a responsible party (or other relevant evidence) of compliance with these usage terms.
8. **DISCLAIMER OF WARRANTIES.** THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND VENDOR EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE OR AS TO ACCURACY, COMPLETENESS OR ADEQUACY OF INFORMATION. CUSTOMER RECOGNIZES THE UNCERTAINTIES INHERENT IN ANY ANALYSIS OR INFORMATION THAT MAY BE PROVIDED AS PART OF THE SERVICES, AND ACKNOWLEDGES THAT THE SERVICES ARE NOT A SUBSTITUTE FOR ITS OWN INDEPENDENT EVALUATION AND ANALYSIS AND SHOULD NOT BE CONSIDERED A RECOMMENDATION TO PURSUE ANY COURSE OF ACTION. VENDOR SHALL NOT BE LIABLE FOR ANY ACTIONS OR DECISIONS THAT CUSTOMER MAY TAKE BASED ON THE SERVICES OR ANY INFORMATION OR DATA CONTAINED THEREIN. CUSTOMER UNDERSTANDS THAT IT ASSUMES THE ENTIRE RISK WITH RESPECT TO THE USE OF THE SERVICES.
9. **Applicable Law.** This SA shall be governed by and construed in accordance with the procedural and substantive laws of the State of Texas, without reference to its conflict of law principles, venue for disputes shall be Travis County, Texas.
10. **Customer Confidential Information.** To the extent allowable under the Texas Public Information Act, Vendor agrees to keep confidential any Customer-specific information communicated by Customer to Vendor that is (i) clearly marked confidential if provided in written form, or (ii) preceded by a statement that such information is confidential, if provided in oral form, and such statement is confirmed in writing within 15 days of its initial disclosure. This obligation of confidence shall not apply to any information that: (1) is in the public domain at the time of its communication; (2) is independently developed by Vendor; (3) entered the public domain through no fault of Vendor subsequent to Customer's communication to Vendor; (4) is in Vendor's possession free of any obligation of confidence at the time of Customer's communication to Vendor; or (5) is communicated by the Customer to a third party free of any obligation of confidence. Additionally, Vendor may disclose such information to the extent required by legal process. Customer acknowledges that Vendor is in the business of researching and analyzing information technology and this obligation of confidence shall not apply to information obtained by Vendor's research, analysis or consulting organization(s) from other sources.

ORDER OF COMMISSIONERS COURT
Authorizing execution of an addendum to a DIR agreement

The Commissioners Court of Harris County, Texas, convened at a meeting of said Court at the Harris County Administration Building in the City of Houston, Texas, on the ____ day of _____, 2021 with all members present except _____.

A quorum was present. Among other business, the following was transacted:

**ORDER AUTHORIZING EXECUTION OF THE AGREEMENT
BETWEEN HARRIS COUNTY AND GARTNER, INC.**

Commissioner _____ introduced an order and made a motion that the same be adopted. Commissioner _____ seconded the motion for adoption of the order. The motion, carrying with it the adoption of the order, prevailed by the following vote:

Vote of the Court	<u>Yes</u>	<u>No</u>	<u>Abstain</u>
Judge Hidalgo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ellis	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Garcia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Ramsey	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Comm. Cagle	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

The County Judge thereupon announced that the motion had duly and lawfully carried and that the order had been duly and lawfully adopted. The order thus adopted follows:

IT IS ORDERED that County Judge Lina Hidalgo be, and she is hereby, authorized to execute for and on behalf of Harris County, the Addendum to the Agreement between Harris County and Gartner, Inc. to provide subscription-based research and related services in accordance with the State of Texas DIR contract number DIR-TSO-4099 for an Initial Term beginning on January 1, 2021, and ending on December 31, 2021, with the option of four one-year Renewal Terms, and for an Initial Term cost not-to-exceed Four Hundred Thirty-Two Nine Hundred Forty-Three and No/Dollars (\$432,943.00). The Agreement and Addendum are incorporated herein as though fully set forth word for word.

All Harris County officials and employees are authorized to do any and all things necessary or convenient to accomplish the purpose of this Order.